A HISTORY

OF

CONFESSION AND INDULGENCES.

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OF

AURICULAR CONFESSION

AND

INDULGENCES

IN THE LATIN CHURCH.

BY

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CONFESSION AND ABSOLUTION.

(*Continued.*)

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PART I.

CONFESSION AND ABSOLUTION.

(CONTINUED.)

CONFESSION AND ABSOLUTION.

CHAPTER XV.

REQUISITES FOR ABSOLUTION.

WHILE, in the development of sacerdotalism, the Church has magnified the functions of the priest as the delegate of God, it has not wholly relieved the sinner of responsibility. Powerful as may be the formula *Ego te absolvo* when uttered in the sacrament, it would be a mistake to assume that it works its beneficent end without conditions and without the coöperation of the beneficiary. Even when the *culpa* has been removed, Dr. Amort tells us that the remission of the *pœna* is only proportionate to the merits and desert of the penitent.[1] It therefore remains for us to see what have been the teaching and the practice of the Church with regard to the essentials requisite on the part of the penitent to render the sacrament effective. The proper comprehension of this is of vital importance, not only to the sinner but to the confessor, for the latter commits a mortal sin each time that he wrongly refuses absolution to the deserving or grants it to the unfit, and many conscientious priests, we are told, refuse service in the confessional through fear for their own souls.[2] That such fear should exist is natural, for the correctness of the confessor's decision must depend on many factors which he can by no possibility estimate with accuracy, and we shall see how intricate are the problems involved, and how discordant, in many cases, are the opinions of the doctors. The position, in fact, of the conscientious confessor is by no means an enviable one, and

[1] Amort de Indulgentiis II. 251.—"Absolutio sacramentalis facta a sacerdote vel episcopo tantum remittit partem pœnæ proportialem merito, dispositioni, contritioni ac fervori pœnitentis."

[2] Salvatori, Istruzione pratica per i novelli Confessori, P. II.

would be much worse but for the comfortable doctrine of invincible ignorance.

The first prerequisite to the enjoyment of the fruits of the sacrament is a knowledge of the truths of religion, and we have just seen how the Lutherans insisted on this, and provided for it in the *Verhör*. It is the same in the Catholic Church, and confessors dealing with those not known to them are instructed always to begin with an examination into the soundness of the penitent's faith. Ignorance of the leading points of doctrine is a mortal sin, but it is not suffered to prove a serious obstacle in the confessional, for the penitent is not required to know the articles of the creed by heart, and it suffices for him to express his assent when asked such questions as "Do you believe that there are three persons in the Trinity?"[1] Only obstinate disbelief can thus serve as a barrier.

Curiously enough, in view of the absolute assurances of the infallible efficacy of the sacrament, faith in it is not among the requisites. The Lutheran doctrine of justification by faith produced a not unnatural antagonism on the part of the Church. St. Augustin had said that the belief and faith of the recipient had nothing to do with the integrity of the sacrament of baptism, but had a great deal to do with his own salvation, and this dictum had been gathered into the compilation of Gratian.[2] But the doctrine of justification by faith, which was at least as old as St. Hiliary of Poitiers, was practically irreconcilable with that of the sacraments, and when it became necessary, in favor of the latter, to break down confidence in the sufficing efficacy of contrition, it was pointed out that no one could know whether his contrition was sufficient, so that it had to be supplemented by sacramental confession.[3] Thus, in scholastic theology, the insistance on faith disappeared, and when Luther promulgated his revolutionary doctrines Cardinal Caietano, in 1518, had no hesitation in denouncing as a fantasy the assertion that faith is even more requisite than contrition. Absolute faith in pardon he declared

[1] Th. ex Charmes Theol. Univers. Diss. v. cap. vi. Q. 5 § 1.

[2] S. Augustin. de Baptismo contra Donatistas, III. 14.—Cap. 151 § 1, P. III. Dist. iv.

See also Ps. Augustin. *de vera et falsa Pœnitentia* cap. 2.—"Pœnitentia itaque quæ ex fide non procedit utilis non est. Oportet autem credere remedium pœnitentiæ a Salvatore concedi."

[3] S. Th. Aquinat. Summæ Suppl. Q. IV. Art. 2.

to be an impossibility, and that we are not intended to feel certainty about it; it is erecting a new Church to add a fourth condition to the three recognized ones of contrition, confession and satisfaction; efficient as is the sacrament, no man can know whether he has received it with or without infused charity, and therefore he must be ever uncertain as to his pardon by God.[1] These were not the doctrines that had commonly been allowed to reach the people, and, as the Apology of Melanchthon shows, the Lutherans made ample use of them in contrasting the doubts which they assumed were felt by Catholics as to their own means of salvation with the confident assurances of the new promises. Leo X. was more prudent in condemning the Lutheran doctrine, and confined himself to the bare denial of the assertion that if the penitent believes himself to be absolved he is absolved.[2] By the time of the council of Trent the controversy had raged too openly for such reticence to be longer possible. It could safely deny the doctrine that faith in the satisfaction of Christ is sufficient satisfaction for sin, and it showed due caution in declaring that no one should doubt the mercy of God, the merits of Christ or the efficacy of the sacrament, although no one could have the absolute certainty of faith that he had obtained grace.[3] From these postulates the deduction was easy that faith in the pardon of his sins is not one of the requisites for the sinner to obtain absolution and enjoy its benefits.[4]

More abstruse and difficult were the questions which arose over the degree of contrition or attrition which suffices to enable the penitent to win remission of sin in the sacrament. We have seen (I. p. 212) how the original doctrine of pardon for contrition, while it could not be denied, was virtually argued away by defining efficient contrition as containing the vow to confess and obtain absolution, and also how it was displaced by attrition through the ingenious theory of the sacramental virtue which converted the weaker into the stronger emotion (I. p. 102). Contrition thus practically dis-

[1] Caietani Opusc. Tract. XVIII. Q. 4, 5.

[2] Leonis PP. X. Bull. *Exsurge Domine*, Prop. 12.

[3] C. Trident. Sess. VI. De Justificatione, cap. 9; Sess. XIV. De Pœnit. can. 12.

[4] Estii in IV. Sentt. Dist. XV. § 1.—For authorities on both sides see Liguori, Theol. Moral. Lib. VI. n. 439.

appeared from the scene, while the theologians rivalled each other in defining the superhuman height of sorrow which the word was intended to express. Alexander Hales tells us that the true penitent ought rather to choose the eternal pains of hell than to commit or to have committed a single mortal sin, and this feeling should be lifelong, even after absolution; contrition is the total conversion of the reason and will to God, so that God is loved above all things and sin detested beyond all things.[1] Aquinas describes the suffering as the greatest that can be endured, and that it should last through life.[2] Caietano defines the conditions of contrition to be to love God above all things lovable, to hate sin above all things hateful, and to avoid it above all things avoidable.[3] The Tridentine Catechism describes it as the most poignant grief that imagination can conceive.[4] Sufficing contrition is thus a purely scholastic conception, and, as though to render it still more unattainable, it is burdened with conditions of infused grace, charity, and prevenient inspiration, which render it the work of God rather than of man, for it is only *contritio informis* until it is vivified with *charitas formata*. Besides all this, it infers a complete change of heart and change of life. Thus the ordinary penitent might safely be taught that without the sacrament there was no hope of placating God and no chance of salvation.[5]

When we turn to attrition the scene changes. It is true that the doctors wrangle among themselves when discussing it, for the variations of human emotions are so infinite and so subtile that classifica-

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[1] Alex. de Ales Summæ P. IV. Q. XVII. Membr. ii. Art. 1 § 6; Art. 2 § 2; Membr. vii.—Astesani Summæ Lib. v. Tit. ix. Art. 1–4.

[2] S. Th. Aquinat. Summæ Suppl. Q. III. Art. 1, 2; Q. IV. Art. 1.

[3] Caietani Tract. IV. De Contritione Q. 1.

[4] Catech. Trident. De Pœnit. cap. 5.

[5] It is true that when Michael Bay taught that contrition, even when informed with perfect charity and including the vow of confession, is insufficient without the sacrament, except in case of necessity or martyrdom, Pius V., in 1567, condemned the proposition as erroneous (Pii PP. V. Bull. *Ex omnibus*, Prop. 71). Frassinetti, moreover, admits (New Parish Priest's Practical Manual, pp. 383–4) that a penitent to whom absolution is refused may justify himself by a single act of sincere contrition, to which the confessor should exhort him in dismissing him, but in the absence of knowledge as to the amount of contrition requisite or elicited, such speculations are purely theoretical, and can have no place in the practical system which the Church has organized.

tion and definition are impossible, while the Church, in undertaking to regulate the destiny of its children, renders classification and definition imperative in practice, if the administration of the sacrament is to be more than the mysteries of a magician. A great theologian, like Cardinal Caietano, frames a classification, and another great theologian, like Domingo Soto, pronounces it a hallucination absurd and impracticable;[1] while the Holy See discreetly avoids uttering an authoritative definition, the council of Trent carefully restricts itself to vague generalities and the Tridentine Catechism, in effusively dilating on contrition, is silent as to attrition.[2] In fact, as the established definition of the sacrament makes it consist of contrition, confession and satisfaction, the substitution of attrition for contrition, though unavoidable, was dangerous. As we have seen, it was eluded by the scholastic assumption that attrition becomes contrition in the sacrament, but the fathers of Trent did not venture to declare this openly. In the first draft of the decree it was so asserted, but Juan Emilio, Bishop of Tudela, pointed out that the doctors were not unanimous as to this, and the ambiguous phrase was substituted that it helps the penitent to the path of righteousness.[3] Domingo Soto, who was one of the theologians of the council, says it is inconceivable that the sacrament effects this change and only admits it when one having attrition imagines it to be contrition and on taking the sacrament receives grace enabling him to be contrite.[4]

Yet evidently, from the very definition of contrition, not one penitent in a myriad can come thus prepared to the confessional, and, unless the means of salvation are admitted to be beyond the reach of ordinary human nature, it is idle to doubt that attrition must suffice in the sacrament, which is neatly put in the assertion that under the old law contrition was necessary, but now it is replaced by confession.[5] The only question worth practical discussion there-

[1] Dom. Soto in IV. Sentt. Dist. XVII. Q. ii. Art. 5.

[2] C. Trident. Sess. XIV. De Pœnit. cap. iv.—Catechism. Trident. De Pœnit. cap. 5, 6.

[3] Pallavicini Hist. Concil. Trident. Lib. XII. cap. x. n. 26. The clause at first read—"verum etiam sufficere ad sacramenti hujus constitutionem," for which was substituted the existing "quo pœnitens adjutus viam sibi ad justitiam parat."

[4] Dom. Soto in IV. Sentt. Dist. XVII. Q. ii. Art. 5. Cf. Zerola Praxim Sacr. Pœnit. cap. xxiv. Q. 37.

[5] La Croix Theol. Moral. Lib. VI. P. ii. n. 607.

fore is what nature and degree of attrition suffice, and here, in the complexity and varieties of human emotions there is ample matter for endless and subtile discussion. Such discussion, however, is not mere word-spinning, for, in the impossible task which the Church has taken on itself, it is the duty of the confessor to grant absolution only when he feels sure that he is carrying out God's will, and he must, if he regards his functions as other than the baldest formalism, scrutinize the heart of every penitent to gauge the extent and depth of his repentance and determine whether it entitles him to the benefit of the sacrament.[1] To discharge this awful responsibility aright he must have rules and guidance; to furnish these is the object of the infinite distinctions and disquisitions of the moralists, and if the result of their tireless labors is merely to add doubt to doubt and to darken counsel it is only another proof of the futility of man's endeavor to control the unsearchable ways of God.

It is not necessary for us to plunge into the dialectic Malebolge thus created, but a cursory view of some of the debated questions will serve to show the nature of the problems confronting the confessor and the attempts made for their solution. There is first the distinction between the two great divisions of repentance, contrition and attrition. That this was recognized at a comparatively early period is shown in the pseudo-Augustin's tract *de vera et falsa Pœnitentia*, the main object of which was to differentiate them,[2] but the term attrition, to express imperfect repentance, seems first to have made its appearance toward the end of the twelfth century, when its use by Alain de Lille indicates that it was a word already recognized in the schools.[3] Alexander Hales asserts that attrition and contrition are not simply different degrees, but are different things, arising from different origins, the one from *gratia gratis data*, the other from *gratia gratum faciens*; when a man is attrite for some of his sins he still has

[1] "Ex his igitur collegi poterunt quæ ad veram contritionem maxime sunt necessaria; de quibus fidelem populum accurate oportebit docere, ut quisque intelligat qua ratione comparare eam possit, regulamque habeat qua dijudicet quantum absit ab ejus virtutis perfectione."—Catechism. Trident. De Pœnitentia cap. vi.

The rigorist Habert, in telling us that absolution is of no benefit to those who have not the disposition requisite to its reception, adds that this is the condition of the majority of penitents (Praxis Sacr. Pœnit. Tract. v.).

[2] Ps. Augustin. Lib. de vera et falsa Pœnit. cap. ix.

[3] Alani de Insulis Regulæ Theolog. Reg. 85 (Migne CCX. 665).

a desire for others; when grace is infused and he becomes contrite, he loses all evil desire and he sorrows for all.[1] On the other hand, St. Bonaventura reduces contrition to such simple terms that it is indistinguishable from attrition; if the grief is equal to that from a temporal misfortune it is a work of perfection and more than is necessary; the confessor is not to ask whether the penitent would undergo death or any other evil rather than commit sin, for this is to tempt him.[2] Aquinas regards attrition as an inferior grade of contrition; the one is imperfect, the other perfect repentance; but he agrees with Hales that the one cannot become the other, they are not habits but acts, and in contrition there is infused grace.[3] Astesanus defines attrition to be a disposition *de congruo* for the removal of sin; when God infuses grace it becomes contrition and washes out the sin.[4] Durand de S. Pourçain holds that attrition is merely the fear of punishment, but it is the first stage towards contrition, the latter being accompanied with infused grace and sufficing for the removal of sin.[5]

Divested of scholastic details the differentiation thus practically reduced itself to the impalpable distinction of the presence or absence of grace, and St. Antonino, in accepting this, renders the diagnosis still more impenetrable by informing us that sorrow, however weak, is contrition if informed with grace; however strong it may be, it is merely attrition if not informed with grace.[6] His contemporary, John Nider, is rigorous beyond any of the Quesnellian errors condemned in the bull *Unigenitus*, for he tells us that all true attrition has its sole source in love of God; the detestation of sin must arise, not from a sense of its turpitude, which is shared by heathen philosophers, but from the fact that it is offensive to God; and if a man has true attrition the sacrament will convert it into contrition.[7] The matter did not become clearer with time and the labors of successive generations of theologians. Domingo Soto argues in a circle when he tells us that attrition is that which is insufficient without the sacrament, while contrition suffices of itself; he rigorously defines both contrition and

[1] Alex. de Ales Summæ P. IV. Q. XVII. Membr. v. Art. 1.

[2] S. Bonavent. in IV. Sentt. Dist. XVI. P. 1, Art. 2, Q. 1.

[3] S. Th. Aquinat. Summæ Suppl. Q. I. Art. ii. iii.

[4] Astesani Summæ Lib. v. Tit. 1. Art. 2, Q. 1; Tit. 9, Q. 1–4.

[5] Durand. de S. Porciano in IV. Sentt. Dist. XVII. Q. ii.

[6] S. Antonini Summæ P. III. Tit xvii. cap. 18.

[7] Jo. Nider Præceptorium Divinæ Legis, Præcept. III. cap. viii. ix.

attrition to be a detestation of sin above all other detestable things and an absolute intention of never sinning for any object whatever, for, without this, attrition is not worthy of the name and is insufficient even with the sacrament. His efforts to differentiate the two are purely speculative, however, for when he turns to practice he says that penitents can scarce tell which they have, while priests find it impossible to determine, nor, especially with the ruder classes, is it worth while to waste time in endeavoring to find out; it suffices to tell them that it should spring from love of God.[1] Melchior Cano says that the distinction between contrition and attrition is easy, and he proceeds to point out four differences, which prove to be merely definitions; on the great question whether one can be converted into the other he naturally sides with his fellow Thomists against the Scotists, in denying it.[2] The generalizations of the council of Trent[3] gave no substantial aid in supplying a practical differential diagnosis, and since then the moralists have continued the endless debate with additional refinements and distinctions.[4] The intricacy of the subject is seen in Palmieri's devoting sixty pages to the conditions of perfect contrition and more than seventy to those of attrition,[5] but this wealth of definition would appear a trifle superfluous when he explains away the Tridentine definition of contrition—that it is in essence a detestation of and sorrow for the sin committed and a resolve to sin no more—the detestation becoming merely "I wish I had not sinned," the sorrow a necessary part or mode of the detestation, and the resolve sufficient if it is merely virtual.[6] Moreover, the use of indulgences is logically enough held to prove that infused grace is superfluous for the remission of punishment.[7]

Of far greater moment in practice is the question as to the amount or degree of attrition requisite to entitle the penitent to absolution and to enable him to enjoy its benefits. It matters not that the priest bestows the sacrament on him if he imposes an "impediment" in the way which renders it invalid. Any "fiction" on his part, either

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[1] Dom. Soto in IV. Sentt. Dist. XVII. Q. ii. Art. 5; Dist. XVIII. Q. iii. Art. 3.

[2] Melchior. Cani Relect. de Pœnit. P. III. (Ed. 1550, fol. 34-5).

[3] C. Trident. Sess. XIV. De Pœnit. cap. 4.

[4] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 433 sqq.

[5] Palmieri Tract. de Pœnit. pp. 221-353.

[6] Ibid. pp. 214, 217-18.

[7] La Croix Theol. Moral. Lib. VI. P. ii. n. 1234.

through intentionally imperfect confession or insufficient repentance is such an impediment and leaves him subject to mortal sin and eternal perdition, however regular may be his performance of the precept of annual confessions: in fact, according to the stricter theologians, such a *confessio informis* is only a fresh sin.[1] No question, therefore, in the economy of salvation can be of more practical importance than the definition of sufficing attrition, and none has been more minutely and resolutely explored and debated. Nor, when the conclusions of the theologians are reduced to practice in the confessional, would it be easy to overestimate the influence of its reflex action on the moral conceptions of the faithful.

Discarding the purely theological concepts of prevenient inspiration, infused grace and charity or love of God, the imperfect repentance known as attrition may spring from a sense of the turpitude of sin or from a dread of its consequences here and hereafter. The fear of hell is described, in the Rule which passes under the name of St. Basil the Great, as a most wholesome emotion which should be utilized to the utmost in exciting a salutary detestation of sin, while, on the other, hand, St. Augustin denounces it as an abject motive with which charity can hold no relations.[2] Certainly penitence, selfishly springing from the baser motives of man's nature, is an unsatisfying source of a claim on a share in the Passion and on the mercy of God, and as soon as the schoolmen commenced to investigate they so pronounced it. It became known as servile attrition—*attritio servilis* or *formidolosa*, and has remained the subject of active controversy ever since. Abelard declared emphatically that love of righteousness is the only source of efficient repentance; that which arises from fear of hell is but despair leading to damnation.[3] The pseudo-Augustin is equally decided; false penitence is that which comes from fear of punishment: it is worthless and only brings the soul to perdition.[4] Cardinal Pullus says the same; it is worthless, for the penitent is coerced and would sin if he dared.[5] Gratian

[1] Caietani Opusc. Tract. v. cap. 5. Whether such a confession has to be repeated is however an open question, with authorities on both sides.

[2] S. Basilii Regula, Interrog. 117 (Migne, CIII. 529).—S. Augustin. Epist. CXL. cap. 21.

[3] P. Abælardi Epit. Theol. Christian. cap. 35.

[4] Ps. Augustin. de vera et falsa Pœnit. cap. 9.

[5] R. Pulli Sentt. Lib. v. cap. 31.

passes over the question in silence; it was apparently a scholastic subtilty which did not concern the canonists. Peter Lombard does not even allude to the fear of hell as a factor in true repentance.[1] Yet the question must have been already fermenting in the schools, and opinions were beginning to change, for, about 1170, Lombard's disciple, Peter of Poitiers, shows that debate was earnest whether servile attrition is good or evil, a merit or a sin, compatible or incompatible with charity, and he concludes that it is a gratuitous gift of God, not in itself meriting eternal life, but leading to a desire for charity.[2] Alexander Hales makes a concession in the refinement that contrition should be felt for the sin and not for the punishment, except in so far as it is a consequence of sin.[3] Aquinas merely says that while we may feel sorrow for the punishment, contrition is concerned exclusively with the sin.[4] The Dominican theologians for the most part took the severer view. Passavanti teaches that the most fervent servile attrition with the sacrament does not save from damnation.[5] St. Antonino regards the fear of hell as wholly insufficient in itself, and John Nider declares that sorrow arising from such fear is not attrition in any sense and is only a fresh actual sin deserving of punishment.[6] The Franciscans taught a laxer doctrine. It was not necessary for Duns Scotus to discuss servile attrition when he asserted that it suffices for the sinner to feel some displeasure for his sin and to have at the time no intention of repeating it; all sacraments work of themselves, and only require that no impediment be placed in their way to obstruct their efficiency.[7] His disciples accepted his views and applied them; Astesanus says that love of God and fear of hell are both useful ingredients in repentance, and Piero d'Aquila seems to know nothing but servile attrition —the fear of punishment is the source of all repentance.[8] Angiolo

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[1] P. Lombardi Sentt. Lib. IV. Dist. XV. § 7.

[2] P. Pictaviens. Sentt. Lib. III. cap. 18.

[3] Alex. de Ales Summæ P. IV. Q. XVII. Membr. iii. Art. 2.

[4] S. Th. Aquinat. Summæ Suppl. Q. II. Art. 1.

[5] Jac. Passavanti, Lo Specchio della vera Penitenza, Dist. IV. cap. 1.

[6] S. Antonini Summæ P. I. Tit. XX.—Jo. Nider Præceptorium Divinæ Legis, Præcept. III. cap. viii. ix.

[7] Jo. Scoti in IV. Sentt. Dist. XIV. Q. iv.; Dist. XVII. Q. unic.

[8] Fr. de Maironis in IV. Sentt. Dist. XIV. Q. 1.—Vorrillong in IV. Sentt. Dist. XIV.—Astesani Summæ Lib. V. Tit. 1, Art. 2, Q. 2, 3.—P. de Aquila in IV. Sentt. Dist. XIV. Q. ii.

da Chivasso is not quite so positive; he considers the emotion caused by dread of punishment as contrition; he tells us that all the doctors consider it efficacious, but he regards this as perhaps doubtful, especially when the mind is clouded in sickness.[1] Between these two schools there were teachers of varying degrees of laxity. John of Freiburg's conception of contrition is almost wholly servile; in describing its six causes, sorrow for offending God and yearning for reconciliation are absent, and in their place appear the fear of hell and the loss of heaven.[2] Guido de Monteroquer treats the fear of hell as only one of the ingredients of contrition; he admits that there are very few whose grief over their sins equals that which they feel for temporal misfortunes, but he discountenances too close a comparison, and confessors should never interrogate their penitents as to this.[3] Gabriel Biel teaches that fear of hell leads to detestation of sin and, if accompanied with faith in divine mercy, to love of God.[4]

Servile attrition had thus been gradually winning its way; its sufficiency was a comfortable doctrine, and in the increasing laxity which preceded the Reformation it became generally accepted. The more rigid theologians might insist on the *dispositio congrua* as requisite for the reception of the sacrament, but Caietano admits that it was generally absent, and his contemporary Prierias argues it away; it suffices to wish to have regret for sins committed and to obtain grace from God to avoid them; this is virtual attrition and is converted into contrition by the sacrament, which impresses on the recipient a disposition known as *ornatus*.[5] It is true that Giovanni da Taggia asserts that confession is invalid when its chief motive is fear of hell, but Latomus assured his Lutheran controversalists that the requisite grace is conferred in the sacrament.[6] Thus the sacrament became more and more a magic formula which supplied deficiencies in both the grantor and grantee, and Melchior Cano,

[1] Summa Angelica s. vv. *Contritio* § 1; *Pœnitentia* § 15.

[2] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 21.

[3] Manip. Curator P. II. Tract 1, cap. 2, 6.

[4] Gab. Biel in IV. Sentt. Dist. XIV. Q. ii. Art. 3, Dub 3.

[5] Caietani Opusc. Tract. V. *De Confessione* Q. 4.—Summa Sylvestrina s. v. *Confessio Sacr.* I. §§ 24, 26.

[6] Summa Tabiena s. v. *Confessio Sacr.* § 29.—Latomus de Confessione secreta, 1525.

Dominican though he was, asserts that all the doctors define attrition to be simply the imperfect regret arising from fear of punishment.[1]

After the vigorous Lutheran assault the Church might have been expected to check this tendency to laxity, but the council of Trent declared that servile attrition, if unaccompanied by a desire to sin, is a gift of God which opens the way to justification in the sacrament; it is true that it added a warning to the penitent that if contrition is absent he must not flatter himself that he is truly absolved before God,[2] but the recognition of servile attrition was enough. The practical application of its utterances is seen in a catechism issued, in 1578, by the Bishop of Pavia for the examination of priests applying for licenses to hear confessions, where it appears that the penitent is only required to express some sorrow for his sins and an intention to perform penance and abstain.[3] We need scarce wonder that the Tridentine Catechism complains that for the most part the people believe that no heartfelt sorrow is requisite, and that an external semblance of it suffices,[4] or that Father Fornari in his instructions to confessors alludes to attrition as the most that can be expected, as though contrition had altogether disappeared from the confessional.[5] What that attrition was is explained by Chiericato, who tells us that before the council of Trent attrition meant perfect sorrow, based on the love of God up to the point where God infused grace, so that it became contrition, but that since the council it is held to mean merely the sorrow caused by fear, so that it cannot become contrition, though it may serve to introduce the love of God, and thus become contrition.[6] In fact, the Tridentine fathers had so successfully eluded a decision that the question whether any love of God is required in the sacrament remained open.[7]

The sufficiency of servile attrition being thus admitted, the next

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[1] Melchior. Cani Relect. de Pœnit. P. III. (Ed. 1550, p. 33).

[2] C. Trident. Sess. XIV. De Pœnit. cap. 4, 6.

[3] Confessionale Savonarolæ, jubente Hypp. de Rubeis Episc. Papiensi, per R. D. Alex. Saulium, Taurini 1578, fol. 81–2.—"Dummodo adsit non solum aliqualis dolor de præteritis sed etiam propositum satisfaciendi et abstinendi de futuro."

[4] Catechism. Tridentin. De Pœnitentia cap. xii.

[5] M. Fornarii Institutio Confessarior. Tract. I. cap. 1. For the wide and long-continued popularity of this work, see De Backer, III. 307.

[6] Clericati de Pœnit. Decis. XIV. n. 9.

[7] Tournely de Sacr. Pœnit. Q. V. Art. ii.

step was to subdivide it into natural and supernatural. For the source of this distinction we may quote Domingo Soto, who thinks it probable that attrition caused by the fear of hell suffices with the sacrament; if the fear is of earthly punishment it does not suffice, though the confession is valid, but if the fear is of worldly evils to be inflicted by God, then it may be regarded as sufficing attrition with the sacrament.[1] Thus natural attrition came to be known as that caused by fear of disgrace or human punishment, and supernatural as that which arose through fear of punishment by God, whether in this world or the next.[2] It was reducing the old definitions of repentance to the lowest denomination and smoothing the sinner's path to heaven to teach that regret for sin caused by dread of infamy or justice suffices in the sacrament, but theologians were found to defend this doctrine as probable. In the sixteenth century Azpilcueta says that he had heard it maintained.[3] Even so good an authority as St. Francis Xavier virtually accepts natural attrition as sufficing when he instructs confessors who find sinners insensible to threats of hell to terrify them into repentance by predicting for them all sorts of misfortunes—loss of money and of reputation, defeats in law-suits, imprisonment, incurable diseases etc.[4] It continued to be taught, and, in 1679, Innocent XI. was obliged to condemn it,[5] though he did not condemn the proposition, which was common among theologians, that actual attrition is unnecessary, and that virtual suffices.[6]

The more rigorous party in the Church was not satisfied with the increasing laxity which sought to degrade doctrine to the level of current practice, and it endeavored to elevate somewhat the conception of supernatural servile attrition. When theologians were found to teach that the mere verbal assertion of sorrow and of wish to abstain, or sorrow because the penitent could not be sorry enough, or that a passing momentary dread of punishment constituted formal attrition

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[1] Dom. Soto in IV. Sentt. Dist. XVIII. Q. iii. Art. 3.—Tamburini Method. Confess. Lib. I. cap. 1, § 5.

[2] Viva, Trutina Theol. in Prop. LVII. Innocent. PP. XI.—Trotta a Veteri Exposit. Propos. Damnat. Tract. II. Art. lvii.

[3] Azpilcueta Man. Confessar. cap. I. n. 8.

[4] S. Fran. Xaverii Nov. Epist. Lib. IV. Epist. 4 (Romæ, 1667, pp. 289–90).

[5] Innoc. PP. XI. Decr. 2 Mart. 1679, Prop. LVII.—Cf. Arsdekin Theol. Tripart. P. III. P. ii. Tract. 4, cap. 5.

[6] Jo. Sanchez Selecta de Sacramentis Disp. XXXI. n. 8.

sufficient for the validity of the sacrament,[1] there could not but be minds that would seek to revert to the earlier and loftier conceptions of the Fathers. Willem van Est, who was inclined to what became known as Jansenism, contends that fear of hell does not suffice unless combined with love of righteousness.[2] Père Seguenot went further, for, in a translation of St. Augustin's tract *De Virginitate*, he took occasion to assert that attrition is insufficient, and that contrition proceeding from perfect charity is requisite, propositions which the Sorbonne, in 1638, condemned as disturbing to quiet souls, contrary to the safe and common practice of the Church and derogatory to the sacrament.[3] The convenient vagueness of the Tridentine definition left ample room for opposing views, and, in 1666, the learned Christian Wolff issued a treatise to prove that it meant that charity is requisite for the remission of sins, and that servile attrition is merely useful, though sometimes necessary.[4] This raised a lively debate, and, in 1667, Alexander VII. issued through the Inquisition a decree prohibiting all mutual abuse by the contending theologians until the Holy See should decide the question, though incidentally it asserted that the majority deny the necessity of any charity.[5] The rigorous party had to contend not only with the prevailing laxity of practice, but with the stigma of Jansenism which their opponents used against them most effectively. When they urged that the fear of hell is not supernatural, and that attrition based solely upon it, without love of God, is not a good or supernatural emotion, Alexander VIII., in 1690, condemned these propositions, and Viva declares them to be Baian and Jansenist with a flavor of Lutheranism, while Francolini assumes that the denial of the sufficiency of attrition without inchoate charity is a modern Jansenist error, though there would seem to be force in the remark of Juenin that demons grieve over their sins not because of the offence to God, but because of the punishment.[6] Fénelon did not hesitate to denounce as scandalous the doctrine that attrition arising from fear is sufficient, but he added

[1] Em. Sa Aphorismi Confessar. s. vv. *Absolutio* n. 13; *Contritio* n. 4.—Alph. de Leone de Offic. et Potestate Confessar. Recol. xx. n. 114.

[2] Estii in IV. Sentt. Dist. xv. § 1.

[3] D'Argentré Collect. Judic. de novis Erroribus III. I. 126.

[4] Chr. Lupi Dissert. circa Contritionem et Attritionem (Opp. XI. 205).

[5] Index Alex. PP. VII. Index Decr. n. 92.

[6] Viva Theol. Trutina in Alex. PP. VIII. Prop. XIV. XV.—Francolini Discipl.

that the requirement of predominant charity is equally dangerous, and he sought to find a middle term in which the love of God should balance the love of sin.[1] The great assembly of the Gallican clergy, in 1700, under the lead of Bossuet, condemned the doctrine that servile attrition suffices without at least inchoate love of God as rash, scandalous, pernicious and tending to heresy, and it ordered all priests so to instruct their penitents.[2] The strife between laxism and rigorism, between the Jesuit theology and the so-called Jansenism, waxed hotter and hotter, but the Jesuit influence in Rome became preponderating, and finally, after a long struggle, Clement XI., in 1713, issued the bull *Unigenitus*, directed primarily against Pasquier Quesnel, condemning 101 propositions, among which it denounced as Jansenist errors the assertion that the fear of hell by itself leads only to despair, and that abstinence from sin through fear alone is external and not internal.[3] The lively resistance which the bull aroused in France almost threatened a schism of at least a portion of the Gallican Church from Rome. Under heavy pressure from Louis XIV. the bull was accepted, nominally at least, by a partial assembly of bishops after a discussion of four months, but many recalcitrated and the contest continued, with threats of the gravest character from Clement and almost open rebellion on the part of the dissidents. Matters went so far that four bishops, with the Cardinal de Noailles, Archbishop of Paris, at their head, interjected an appeal to a future council, in which they were sustained by the Sorbonne and the faculties of Reims and Nantes. The appeals were put on the Index, the privileges of the Sorbonne were suspended, and the Roman Inquisition ordered the prosecution as heretics of all who should criticize the bull.[4] The bishops com-

Pœnit. Lib. III. cap. viii. n. 1.—Juenin de Sacramentis Diss. VI. Q. iv. cap. 2, Art. 3.

[1] Fénelon, sur le Commencement de l'Amour de Dieu (Œuvres, Paris, 1838, II. 347).

[2] Habert Theol. Moral. De Pœnit. cap. VIII. § iv.—Juenin de Sacramentis Diss. VII. Q. iv. cap. 4, Art. 2, § 4.

[3] Clement. PP. XI. Const. *Unigenitus*, Prop. 60, 62, 66 (Bullar. VIII. 120).

[4] Première Instruction Pastorale de Mgr. le Card. de Noailles, Paris, 1719, I. 41; II. 127, 157, 163, 166–76.—Index Bened. PP. XIV. 1744, p. 263.—Clement. PP. XI. Const. *Circumspecta*, 18 Nov. 1716; Decr. S. Inquisit. 2 Maii 1714; 3 Aug. 1719 (Bullar. VIII. 180, 402, 404).

For the violent means adopted to procure the acceptance of the bull and the

plained that the simple negation of the Quesnellian propositions was vague and left the door open to the most deplorable laxity, leading to general demoralization, and they begged the pope to give such definitions or explanations as would enable them to avert these evils, but the only reply was that the bull was sufficiently clear to those not wilfully perverse, and that all who would not accept it as it stood would be cut off from the Church.[1] So heated was the debate that the Benedictine Dom Thierry de Viaixnes, in 1727, did not hesitate to say that in the general council to which he appealed the bull would be burnt and its author condemned as a heresiarch.[2] It was not till 1729 that the Sorbonne made its final submission and disavowed its rebellious proceedings,[3] but this by no means put an end to the agitation. The performances of the *Convulsionnaires* at the tomb of François de Pâris in the cemetery of S. Médard, until its closure by royal order in 1732, illustrate the spiritual exaltation of the opponents of the bull, and, as late as 1736, the Jansenist Bishop of Senez declared that the miracles operated at the intercession of Pâris proved that the bull was not fit to be accepted.[4] In 1762 the so-called Jansenists had their reprisals on the Jesuits, but the agitation continued until the Revolution absorbed all other excitements.

The papal tactics of defining only by negation could lead to no positive affirmation of doctrine, but the Holy See cautiously held aloof from committing itself to any precise determination of a matter incapable of absolute definition. When the rigorists accused the laxists of administering the sacraments without requiring a due amount of contrition, the latter retorted that in practice the rigorists

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protests of the Parlements of the kingdom, see *Le Temoignage de l'Université de Paris au sujet de la Constitution Unigenitus*, Paris, 1716.

[1] Noailles, Instruction, I. 21, 31–2, 39, 44, 46, 50.—Clement. PP. XI. Const. *Pastoralis Officii*, 28 Aug. 1718 (Bullar. VIII. 207).

[2] Colonia, Bibliothéque Janséniste, Ed. 1735, p. 6.

[3] D'Argentré, III. I. 172.

[4] Doyen, Vie du Bienheureux François de Pâris; Recueil de Pièces, p. clxv. (Utrecht, 1743).

The immense literature which accumulated around the performances of the *Convulsionnaires* may well be forgotten, but worth preserving is the epigram posted on the gate of S. Médard after its closure—

De part le Roy defence à Dieu
De faire miracle en ce lieu.

did the same, and that otherwise the sacrament would scarce ever be granted.[1] Although Rome thus evaded the decision of a question on which depends the efficacy of nearly every sacrament administered to penitents, it did not hesitate, when not speaking *ex cathedra*, to teach the sufficiency of servile contrition without charity. In a series of vernacular instructions, drawn up by Benedict XIII., and ordered by the council of Rome, in 1725, to be used in all parishes, the definition of attrition is the servile one of the council of Trent, as arising from the fear of hell, or of loss of paradise, or the turpitude of sin, but it added, what the Tridentine fathers were careful to elude, that this suffices, adding the explanation that this is the common opinion, though it is still undecided by the Holy See.[2] Benedict XIV. therefore was wise when he warned the bishops not to assert absolutely the sufficiency of mere servile attrition, or the necessity of inchoate charity, for it is *sub judice*, and either side may be sustained with impunity.[3] While thus either may be employed in practice, Ferraris asserts that the motive of attrition is charity towards ourselves rather than towards God, for it arises from fear of temporal or eternal punishment, and, with the sacrament, this suffices for justification; as for the love of God, he contents himself with the reflection that attrition leads to it, explicitly or impliedly, formally or virtually.[4] Liguori tells us that the great mass of authorities are in favor of the sufficiency of mere servile attrition, even if it arises only from the fear of temporal evils to be sent in chastisement by God, but he adds that the other opinion does not lack probability and is safer.[5]

The rigorists were not wholly silenced and endeavored to avoid the Quesnellian errors by dividing *timor servilis* into *simpliciter servilis* and *serviliter servilis*, the former being fear of punishment without desire to sin, while in the latter there is desire restrained by fear.

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[1] Francolini Clericus Romanus munitus Disp. x. n. 2, 4.

[2] C. Roman. ann. 1725, Tit. xxxii. cap. 3 (Romæ, 1725, p. 138).—"Bastando il dolore imperfetto, cioè l'Attrizione, gia spiegata di sopra, ò pura, ò al più quella che è congiunta con quale principio di amor benevolo verso Dio, il che rimana finora indeciso dalla Sante Sede." A Latin version may be found in the *Collectio Lacensis*, I. 458.

[3] Bened. PP. XIV. De Synodo Diœces. Lib. viii. cap. xiii. n. 9.

[4] Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* Art. ii. n. 7, 8, 10.

[5] S. Alph. de Ligorio Theol. Moral. Lib. vi. n. 440–5. For the still unsettled dispute over this question see the *Vindiciæ Alphonsinæ*, pp. 426 sqq. (Romæ, 1873).

Of course the attrition aroused by the former is supernatural, and Father de Charmes holds that all servile attrition to be efficient with the sacrament must include some love of God.[1] The belligerent rigorist Concina is unsparing in his denunciation of the teaching of the laxists as an effort to reconcile pagan morals with heavenly rewards.[2] This resistance was in vain. The Jansenist movement in Tuscany, under the Grand-Duke Leopold I., in denouncing the efficacy of mere servile attrition as leading only to supposititious conversions, gave the laxists the opportunity desired, and Pius VI. condemned the doctrine as false and rash, contrary to the safe practice of the Church, and derogatory to the power of the sacrament.[3] Thus the Church at last spoke in terms which, if not wholly unambiguous, could be construed as condemning all but the laxer requirements, and its teachers have availed themselves of the opportunity. Miguel Sanchez treats as Jansenist and Lutheran the demand for predominant charity; as for the other points, they are merely a question of words, for there is no attrition that does not impliedly contain charity.[4] Palmieri argues that for the sacrament to reconcile the sinner with God requires only the removal of unretracted sin, and this is accomplished by attrition arising solely from servile fear.[5] The Catechism of the Council of Baltimore asserts that "imperfect contrition" suffices, arising through the fear of hell or the hatefulness of sin, and it says nothing about this becoming contrition in the sacrament.[6]

There is still another dilution of repentance—the *attritio existimata*,

[1] Th. ex Charmes Theol. Univ. Diss. v. cap. iii. Q. 3, Artt. 1, 2.—Tournely de Sacr. Pœnit. Q. v. Art. 1.

[2] Concina Theol. Christian. contract. Lib. IX. Diss. 1, cap. 7, §§ 5, 6. "Sed NOVA VIA MEDIA una conjungit paganicos mores et regni æterni præmium; sacramenta Christi et voluptates mundi; lucem et tenebras; bonum et malum."—Ibid. cap. 9, § 3, n. 4.

[3] Istruzione Pastorale di Mgr. Vescovo di Chiusi e Pienza (Guiseppe Pannilini) § xxxvi. (Firenze, 1786, p. 89).—Catechismo per i Fanciulli ad uso delle città e Diocesi di Cortona, Chiusi, Pienza, Pistoja, Prato e Colle, Lezioni 11, 12 (Pistoja, 1786).—Compendio dell' Educazione overo Istruzione Cristiana, cap. 22 (Napoli, 1784).—Atti e Decreti del Concilio di Pistoja dell' Anno 1786, pp. 142–3, 147.—Pii PP. VI. Const. *Auctorem Fidei*, Prop. xxv. xxxvi.

[4] Mig. Sanchez Prontuario de la Teol. Moral. Trat. VI. Punto iv. § 2.

[5] Palmieri Tract. de Pœnit. p. 344.

[6] Catechism of the Third Plenary Council of Baltimore, 1886, p. 35.

or imaginary attrition, in which the penitent thinks that he has attrition, but in reality has none. Already in the fourteenth century Durand de S. Pourçain takes note of this and holds that it suffices for the penitent to consider himself contrite, for God supplies what is lacking, or the sacrament makes it good.[1] The question theoretically is both a puzzling and an important one, for it is recognized as a self-evident fact that no one can rightly gauge and estimate the depth and reality of his own emotions, and when once it is admitted that he may deceive himself into thinking that he is attrite when he is not, the basis becomes unstable of the whole elaborate superstructure erected by the labors of the theologians. As it is impossible, however, to know whether the penitent's belief in his own attrition is well or ill-founded, or how God may regard it in case he is mistaken, the matter is practically purely speculative. Some doctors of high authority invoke the aid of invincible ignorance for the benefit of the penitent;[2] others argue, like Durand, that in view of his good faith God supplies a sanctifying grace sufficient for justification,[3] but the opinion of the insufficiency of such attrition is more common, and to this Palmieri inclines, though he comforts the penitent by assuring him that if he does what he can he may rest assured that his attrition will become sufficient in confession.[4] After all, the futility of these speculations which have so greatly exercised the theological mind for the last seven hundred years, is shown in the assertion of Liguori that many confessors simply ask the penitent "Do you ask God's pardon for all these sins, and do you repent of them in your heart?" and then, without another word, confer absolution.[5] Possibly this may help to explain the complaint of the

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[1] Durand. de S. Porciano in IV. Sentt. Dist. XVII. Q. xiii.

[2] Melchior. Cani Relecta de Pœnit. P. V. (Ed. 1550, p. 121).

[3] Berteau Director Confessarior. Ed. XXI. Venet. 1684, p. 489. This is probably the work condemned by the Sorbonne, in 1638, as containing "non tantum multa inepta et ridicula sed etiam turpia et obscæna" (D'Argentré, III. I. 16). It was not, however, condemned in Rome, and seems to have continued largely in use for at least half a century.

[4] Palmieri Tract. de Pœnit. pp. 353-7.—Cf. Escobar Theol. Moral. Lib. VII. Examen. iv. cap. 5, n. 28.—Caramuelis Theol. Fundam. n. 1881.—Arsdekin Theol. Tripart. P. III. P. ii. Tract. 4, cap. 5.—Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. cap. 1, Dub. 2, n. 2.—Th. ex Charmes Theol. Univ. Diss. V. cap. iii. Q. 1.

[5] S. Alph. de Ligorio Praxis Confessarii Cap. I. § 2, n. 10.

council of Bordeaux, in 1859, that in most cases the fruit of the sacrament is lost through lack of contrition.[1]

The progressive exaltation which we have traced in the power ascribed to the sacrament as a substitute for the demands made upon the conscience of the penitent naturally leads to a formalism supplanting the essentials which the earlier Church regarded as alone constituting a claim for pardon. A necessary preparation for confession is the eliciting of what is called an "Act of Contrition," but we are told that if at Easter a Christian has not access to a confessor he is not bound to elicit an act of contrition, for when the Church imposes an obligation for an external act we are not held to an internal one if the external one is impossible, since the obligation to the internal one is secondary.[2] Thus the sign had replaced the thing; confession, which had originally been merely one of the tokens of contrition, had become the sole essential, and contrition without it is useless; the obligation to God has been transferred to man. The act of contrition itself is, however, but another illustration of the formalism which tends to satisfy itself with externalities. It is a formula expressing sorrow for sins committed and intention of amendment and is regarded as of great virtue under various circumstances. Thus if a priest in mortal sin is obliged to celebrate mass or create "scandal" by its omission, and has no opportunity of confessing and obtaining absolution, he can qualify himself by eliciting an act of contrition with an intention to confess.[3] These formulas are sometimes elaborate and sometimes simple, and are even turned into vernacular verse to aid the memory of the rude and uninstructed.[4] Theoretically, the

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[1] C. Burdigalens. ann. 1859, Tit. III. cap. 5 § 3 (Coll. Lacens. IV. 761).

[2] Summa Diana s. v. *Servus*, n. 42.—A similar mechanical conception of morals is exhibited in the dictum that contrition need not be felt for remitted sins if they recur to the memory, for the object of contrition is reconciliation to God, and this has been obtained.—Ibid. s. v. *Attritio et Contritio* n. 5.

[3] Astesani Summæ Lib. V. Tit. xi.—Jo. Gersonis Regulæ Morales (Ed. 1488, XXV. E.).—Casus Conscientiæ Bened. PP. XIV. Oct. 1736, cap. 3.

Father de Charmes suggests another mode of escape from scandal for a priest who through lack of absolution is unfit to celebrate mass. It is to scratch the thumb with a knife and then bandage it and exhibit it as the reason for not celebrating.—Theol. Univ. Diss. V. cap. vi. Q. 5, § 3.

[4] Tamburini (Method. Confessionis Lib. I. cap. 1, § 6) gives the following for an act of contrition "Pœnitet me intime de peccatis meis propter Deum quem summe diligo, emendationem propono in futurum." Also this for attrition—

act of contrition to be effective must be based upon a corresponding internal emotion, which, as we may easily believe the moralists, is by no means easy,[1] and in fact Liguori tells us that the ignorant are mostly unable to perform it.[2] This would seem to imply that it may be made a matter of training, but when an emotion of this kind is to be summoned at will or at command, it is not uncharitable to believe that the form in most cases replaces the substance, and we have the authority of Liguori that very few penitents take the trouble thus to prepare themselves for confession.[3]

Another question relating to contrition, which has greatly agitated the schools, is whether the sacrament can be valid and yet *informe*, or inoperative in consequence of the repentance not extending over all the mortal sins committed. The impossibility of solving the problem only rendered the debate more attractive, and hosts of great names are arrayed on either side, but the majority are in the affirmative, wherefore we are told that this is the more probable opinion and that the sacrament remains dormant until it is vivified by the removal of the impediment. If the penance is thus performed in mortal sin, it too revives and removes the punishment *ex opere operato*.[4]

Closely connected with the question of the sufficiency of attrition is the motive which leads the penitent to seek the sacrament. We have seen that it is regarded as invalid if dread of infamy or justice is the only source of attrition; it is not easy to differentiate this from

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"Mihi displicet peccasse propter mala quæ Deus mihi immittere vel bona quibus me privare potest."

Equally simple is one of Benedict XIV. (Casus Conscientiæ, Sept. 1739, cas. 2).—"Pœnitet me offendisse Deum quia summe bonum est, nec ultra hoc in æternum faciam."

More ornate is one contained in the instructions for children issued by Benedict XIII. (Concil. Roman. ann. 1725, p. 440)—

Offesi il mio Signore,
Mio Dio, mar di pietà, fonte d' amore!
Ingrato offesi a torto
Chi sol per amor mio in Croce è morto.
Pentami, sommo Ben, Bontà infinita:
Mai più ti offenderò, mai più, mia Vita.

[1] Caramuelis Theol. Fundam. n. 2098.

[2] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 624.

[3] Ejusd. Praxis Confessar. cap. I. § 2, n. 10.

[4] La Croix Theol. Moral. Lib. VI. P. ii. n. 672, 1244.

other worldly motives, but theologians draw nice distinctions under which it is difficult to exclude any one. A woman goes to confession and communion and mass because her companions do so and she desires their esteem—are her sacraments sacrilegious? A man is charitable, partly from kindness and partly from desire of reputation —is there merit in it? Of old it was held that confession from such motive is invalid, but modern casuists assure us that if the vain-glory is *per accidens*, the merit is not lost.[1]

If the question as to the degree of sufficing attrition has proved so intricate and embarrassing, that of amendment and abstinence from sin has provoked no less discussion and is perhaps even more difficult of resolution in practice. In the early Church, as we have seen, repentance was held to imply conversion of heart and amendment of life, and Chrysostom was regarded as a heretic because he was willing to admit the relapsed to repeated penance. It was on this that were founded the disabilities imposed on penitents to preserve them from temptation, and the definition by Gregory the Great of the true mode of performing penance differs little from that of Luther—that it is to grieve over past sins and not to repeat them.[2] Human nature, however, is too frail to stand such a test enforced in all its strictness, while human wisdom is incapable of framing a rule which shall apply to all cases the line of demarcation existing between the earnest Christian who falls repeatedly yet always strives to rise again and the habitual sinner who regards the pardon of his offences simply as a licence for renewing them. Yet it was to this impossible task that the Church bound itself when it undertook to guide the consciences of all its subjects and to wield the keys of heaven and hell, and on the wise discharge of the duty thus assumed depends for the most part the moral influence which it attributes to the confessional.

In the profound alteration produced in the Church by its struggle with the Barbarians and their nominal conversion, the old-time strictness necessarily disappeared. If the convert could be brought to confess and ask for reconciliation it did not answer to hold him to too strict an accountability for his future conduct. Among the Peniten-

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[1] Summa Angelica s. v. *Confessio* I. §§ 5, 24.—Gury Casus Conscientiæ I. 33–4.

[2] Gregor. PP. I. Homil. in Evangel. xxxiv. 15.—"Pœnitentiam quippe agere est et perpetrata mala plangere et plangenda non perpetrare."

tials therefore we find little thought bestowed on amendment of life in assigning penance, though in some of the later ones, which bear the sacerdotal impress of the Pseudo-Isidorian movement in the ninth century, it claims a place among the seven methods of obtaining pardon.[1] That the forgers of the false decretals sought to restore the importance of abstention from sin is seen in a phrase attributed to Pius I., that fasting and prayer and other good works are useless unless the mind is withdrawn from sin.[2] A canon is attributed to the great council of Piacenza under Urban II. in 1095, which if enforced would have settled the question for the future, for it forbids any one to be received to penance who will not dismiss hatred from his heart, or a concubine, or any other mortal sin.[3]

When the schoolmen commenced their labors it was apparently not thought worth while to complicate the effort to popularize confession by too rigid a construction of the old rule. Hugh of St. Victor quotes Ambrose and Gregory and Isidor to the effect that penitence is naught if it is followed by fresh sins, but he argues that subsequent sins only prove that the sinner is then no longer penitent, not that he has not been.[4] Peter Lombard follows in the same line of thought: he struggles with the ancient authorities and seeks to prove that an intention at the time to sin no more suffices, and that relapse into sin can be cured by renewed repentance; if contrition works amendment it is the sufficing contrition which in itself remits sin and renders the sacrament superfluous[5]—leading to the deduction that the sacrament is for those who cannot refrain from sin. In the desire to extend the use of confession the barriers were thrown down, and Alexander III. evasively ordered even those to be received to confession who asserted that they could not abstain—a precept which became embodied in the canon law.[6] Yet the old teachings of the

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[1] Pœnit. Merseburg. *a* Prolog; Pœnit. Ps. Gregor. III. cap. 2 (Wasserschleben, pp. 388, 537).

[2] Gratian cap. 21 Caus. XXXIII. Q. iii. Dist. 3.—P. Lombard. Sentt. Lib. IV. Dist. XV. § 3.—It is perhaps significant that Gratian, while quoting the passage, endeavors to explain it away as applicable only to solemn penance and not to the general custom of the Church.

[3] Bertold. Constant. Chron. ann. 1095. Curiously enough, there is no such canon among those attributed to the council in the collections.

[4] H. de S. Victore Summæ Sentt. Tract. VI. cap. iv.

[5] P. Lombardi Sentt. Lib. IV. Diss. xiv. § 1; Dist. xv. § 7.

[6] Cap. 5 Extra Lib. V. Tit. xxxviii.

Fathers could not be thus superseded without a struggle. Alain de Lille endeavored to reconcile the old and the new by defining penitence to be contrition for sins with the intention to avoid them expressed through the mouth of the confessor.[1] Adam de Perseigne is more conservative in saying that confession is useless without amendment; even when there is an earnest desire to abandon sin, if it is unsuccessful, good works will not purchase absolution; they may procure some mitigation of the torments of hell, or they may be repaid during life by worldly prosperity, but this is all.[2] Eudes of Paris, in 1198, and Richard Poore of Salisbury, in 1217, order the confessor to inquire of the penitent whether he will abstain from sin, and if he refuses to promise he is to be denied absolution, lest in relying upon it he be led into fresh sin.[3]

When, by the Lateran canon of 1216, confession was made obligatory, the question as to abstention from sin, as a condition precedent to absolution, acquired fresh importance, and the Church found itself involved in difficulties not easily resolved in practice, especially as regards the assurances to be exacted of the penitent. William of Paris declares that pardon of sin is only to be promised for abandonment of sin, yet he is emphatic in the precept that no vow or oath or even promise is to be required of the penitent, lest it prove a snare to entice him to greater sin.[4] It was a dilemma of which either horn might prove provocative of evil, for Berenguer, Bishop of Gerona, instructs his priests that those who will not promise to abstain are to be refused absolution,[5] and St. Bonaventura tells the confessor that absolution cannot be granted without abandonment of sin; that he must exact a promise to abstain, for it is a mortal sin to confer absolution on those who refuse to do so, like the pestiferous ignoramuses who thus grant licence to confirmed concubinarians, usurers and other habitual sinners, a power which not the pope nor St. Peter himself nor all the angels possess.[6] In 1284, the council of Nîmes is emphatic on the subject and strictly insists that

[1] Alani de Insulis de Arte Cath. Fidei Lib. IV. (Pez, Thesaur. I. II. 497).

[2] Adami de Persennia Epist. XX. (Martene Thesaur. I. 751).

[3] Odonis Episc. Paris. Synod. Constitt. cap. vi. § 8; R. Poore Constitt. cap. XXX. (Harduin. VI. II. 1940; VII. 97).

[4] Guillel. Paris. de Pœnitentia cap. 24, 26; de Sacr. Pœnitentiæ cap. 21.

[5] España Sagrada, XLIV. 20.

[6] S. Bonaventuræ Confessionale cap. iv. Partic. 2, 3.

absolution and communion are to be refused to those who have not a firm resolution to abstain.[1] How this was to be recognized does not appear, and, in 1287, the council of Liége contents itself with refusing absolution to those who will not say that they wish to abstain.[2] John of Freiburg reflects the uncertainty of the period in the mass of confused and conflicting authorities which he cites. There could be no doubt as to the principle, but its reduction to practice was quite a different thing, and he concludes that although, if the penitent will not abstain his good works will be fruitless, still he is to be received to absolution and be exhorted to amendment.[3] The Scotists, with their tendency to laxity, argued that it is sufficient if the penitent at the time of receiving the sacrament has not the actual intention of committing sin,[4] but Astesanus adds that if the penitent professes readiness to abstain and the sin is a grave one, an oath should be exacted of him.[5] Durand de S. Pourçain admits that the question as to penitents who will not abstain is a difficult one; he cites the arguments on both sides and avoids expressing a decided opinion, except that it is safer to make such a fictitious penitent confess again.[6] The council of Cambrai, in 1310, was more rigid and ordered absolution to be refused to those who had not the intention to abstain, but penance was to be imposed, and they were to be urged to the performance of good works in the hope that these would induce God to illuminate their hearts.[7] About 1330 Guillaume de Trie, Archbishop of Reims, in his instructions to confessors only requires the penitent to promise to abstain as much as he can.[8] Chancellor Gerson alludes to the Scotist doctrine that absence of actual intention suffices, as a very merciful one, and holds the safer and more probable opinion to be that actual intention not to sin is requisite,[9] but how the test is to be applied is not stated. St.

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[1] C. Nemausens. ann. 1284 (Harduin. VII. 910).

[2] Joh. Leodiens. Statut. Synodal. ann. 1287, cap. 4 (Hartzheim III. 686).

[3] Joh. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 137, 139.

[4] Joh. Scoti in IV. Sentt. Dist. XIV. Q. 4.—Fr. de Maironis in IV. Sentt. Dist. XIV. Q. 1.

[5] Astesani Summæ Lib. V. Tit. xxxi. Q. 2.

[6] Durand. de S. Porciano in IV. Sentt. Dist. XVII. Q. xiii.

[7] C. Cameracens. ann. 1310 (Hartzheim IV. 114).

[8] Statuta Synod. Remens. Sec. Loc. Præcept. 4 (Gousset, Actes etc. II. 540). See also C. Suession. ann. 1403 (Ibid. p. 630).

[9] Joh. Gersonis Regulæ Morales (Ed. 1488, XXV. H.).

Antonino follows the council of Cambrai; if a penitent is not disposed to abandon his sins, absolution is to be refused and some good works are to be enjoined.[1] Another authority of the period throws the responsibility on the penitent, who ought to have the firm intention of sinning no more, for there are many who feel true contrition and confess well, but if the evil desires remain in their hearts their confessions are naught.[2] Angiolo da Chivasso and Bartolommeo de Chaimis say that no promises or oaths are to be exacted, but it is a mortal sin to absolve the penitent who will not agree to abandon a mortal sin.[3]

In the progressive laxity of the pre-Reformation period Caietano explains that what commonly passes for attrition in the confessional is the regret of having sinned felt by habitual concubinarians and usurers accompanied by a velleity of intention to reform which by no means implies an intention to do so. In fact, he says it is almost universal for penitents to admit their intention of not abandoning their sins; in these the virtue of the sacrament does not convert attrition into contrition, yet the confession is valid and need not be repeated.[4] Even so severe a moralist as Savonarola is contented with mere displeasure, provided there is not an absolute intention to continue sinning.[5] Such being the custom, the speculations of the theologians are only of interest as illustrations of the impossibility of reducing their theories to practice. Prierias shows the conflict between the two by saying that if a penitent declares that he cannot abandon a sin he must be refused absolution—but then the confessor must never allow any one to depart in despair, and if he absolves the absolution is good and will have its effect when the sinner truly repents.[6] Thus the confessors kept on absolving while the sinners

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[1] S. Antonini Instruct. de Audientia Confessionum, fol. 11*b*.

[2] Raynaldi Confessionale (*sine nota, sed circa* 1476).

[3] Summa Angelica s. v. *Confessio* IV. § 13; VI. §§ 1, 3.—Bart. de Chaimis Interrogat fol. 92*a*.—Cherubini de Spoleto Sermones Quadragesimales Serm. LXII.

[4] Caietani Opusc. Tract. IV. De Attritione Q. 1; Tract. V. De Confessione cap. 5. Yet elsewhere he instructs the confessor to commence by asking the penitent whether he is a concubinarian or usurer or detainer of others' property; and if the answer is affirmative to refuse to listen further. Even those who hold incompatible benefices by virtue of papal dispensations are to be rejected. —Caietani Summula s. v. *Interrogatio*.

[5] Savonarolæ Confessionale fol. 34*b*.

[6] Summa Sylvestrina s. vv. *Confessio Sacram.* I. § 27; *Confessor* III. § 15; IV. § 3. The theory that an absolution, imperfect because of fictitious confession,

kept on sinning, and the system was sufficiently elastic to allow the consciences of both parties to be at ease, though Domingo Soto argues against the lax opinion that, if the penitent declares his inability to abstain, still his confession fulfils the Lateran precept.[1]

The council of Trent abstained from any disquieting definitions and contented itself with specifying that attrition excludes the will to sin, and with anathematizing the Gregorian and Lutheran doctrine that the best penitence is a new life,[2] which was negative rather than positive, and left the door open for those who at the moment might have no definite intention of continuing their evil courses. The Tridentine Catechism was equally reserved; it described contrition as comprising a firm and certain intention of amendment, but it gave no instructions as to the treatment of relapsed or habitual sinners.[3] The reforming zeal of S. Carlo Borromeo broke in somewhat rudely on this comfortable opportunism, with the positive command that in the Milanese province no concubinarian, usurer, blasphemer, or other habitual sinner should be admitted to confession until he should, for some months, have given evidence of amendment.[4] This wholesome severity unfortunately was only local, while laxity was general. Manuel Sa tells us that a mere intention to abstain suffices for absolution even if the confessor has no confidence in its effectiveness, though when a man frequently returns with the same sin it is well sometimes to defer the absolution.[5] In this latter case Bishop Zerola only suggests a warning to the sinner

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becomes valid when the penitent subsequently repents, is, like so many other points, a matter in dispute between the severer and laxer schools. A fictitious confession (*confessio ficta*) is one in which some sin is concealed or the penitent has not the intention of abandoning sin. Aquinas holds (Summæ Supplem. Q. IX. Art. 1) that when the fiction disappears the absolution becomes good and need not be repeated, though the fiction itself is a sin requiring subsequent confession. Chancellor Gerson, on the other hand, says (Regulæ Morales, Ed. 1488, XXV. H.), that the more probable though severer opinion is that there is no absolution and that the confession must be repeated. The modern theory appears to be that if the fiction is *material* or unintentional, the sacrament revives; if it is *formal* or malicious, the sacrament is wholly invalid.—Marc Institt. Moral. Alphonsianæ n. 1397.

[1] Dom Soto in IV. Sentt. Dist. XVIII. Q. iii. Art. 3.

[2] C. Trident. Sess. XIV. De Pœnit. cap. 4; can. xiii.

[3] Catechism. Trident. De Pœnitentia cap. 6.

[4] S Caroli Borrom. Instruct. Confessar. (Ed. Brixiæ, 1676, pp. 76, 80).

[5] Em. Sa Aphorismi Confessar. s. v. *Absolutio* n. 12.

that, if he does not abstain, he will lose the fruit of his confession; if he absolutely refuses to reform he is not to be sent away in despair, but some good work is to be enjoined in the hope that God may enlighten him.[1] Escobar teaches that actual intention to abstain is not necessary, but virtual suffices, if there is good faith.[2] Willem van Est was regarded as rigorous, but he shows us how little share moral improvement had in the formalism of the confessional when he tells us that Luther's saying "A new life is the best penitence" was false, and therefore was properly condemned.[3] Diana informs us that it is a disputed question whether attrition should include an express or only an implied intention to abstain, and he explains that a sufficient intention may coexist with a probable expectation of relapse.[4] Tamburini states that an explicit intention is laudable, and is by some thought necessary, but it is probable that the mere detestation of sin suffices, because no one wishes to do what he detests.[5]

Even more relaxed doctrines than these were put forward and were largely practised. Antonio Molina says that he would absolve and admit to communion every week a penitent coming to him with the same array of sins.[6] Gobat tells us that he was accustomed to absolve six or eight times a penitent confessing the same sins, and then advise him to seek a confessor who could do him more good[7]—so that a sinner could thus sin and be absolved indefinitely. Juan Sanchez asserts that the confessor has no right to ask the penitent whether he is an habitual sinner, and that if he does so the latter can equivocate or lie in reply; absolution he says is not to be refused or deferred to a penitent habitually sinning against the law of God, of nature, or of the Church, even if there is no hope of amendment, provided he professes sorrow and proposes to amend; he has a right to absolution, and to deny it is to deprive him of the grace of

[1] Zerola Praxis Sacram. Pœnitent. cap. xxvi. Q. 14, 15.

[2] Escobar Theol. Moral. Tract. VII. Exam. iv. cap. 5, n. 28.

[3] Estii in IV. Sentt. Dist. XVI. § 1.

[4] Summa Diana s. v. *Attritio et Contritio* n. 9.

[5] Tamburini Method. Confessionis Lib. I. cap. 1, § 3. This work appeared in 1645, and had a wide circulation for a century. See De Backer II. 618.

[6] Ant. Molina de Sacerdotio cap. vi. (Juenin. de Sacram. Diss. IV. Q. viii. cap. 1, § 3).

[7] Gobat Alphab. Confessar. n. 524.

the sacrament as an aid in overcoming the habit.[1] The two former of these propositions of Sanchez were condemned by Innocent XI. in 1679,[2] and he further ordered the superiors of the religious Orders to instruct confessors to deny absolution to those not prepared to mend their ways, though the force of this injunction was somewhat weakened by its being mainly directed against women who dressed too expensively or immodestly. As we shall see hereafter, Innocent favored the rigorist section of the Church, and his assistance was sorely needed by them in the losing battle which they were fighting. Juenin, whom we may take as their representative, taught that absolution is to be refused to those who have not a firm and constant resolve to sin no more; he advocated the rule of S. Carlo Borromeo (which was adopted by the assembly of the Gallican clergy in 1656[3]), and he devotes a long section to combating the arguments of those who held that the sinner should be absolved *toties quoties*—as often as he was in need of it. These arguments show the impossibility of the rigid administration of the sacrament. It was urged that penitents would be driven to despair; that at the moment they may have true contrition; that by refusal they are angered and driven away; that it would be impossible for them to obey the command of Easter communion, and that denying them the Eucharist would cause scandal, and that greater scandal would be created by deferring marriages through the inability to obtain the preliminary sacrament; that people's reputations would be destroyed; but more significant than all is the plea that custom makes law, and it is the custom to absolve habitual sinners, even though there is no sign of their amendment beyond a verbal promise—a custom the existence of which

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[1] Jo. Sanchez Selecta de Sacramentis Disp. IX. n. 7, 11, 12; X. n. 16.

[2] Innoc. PP. XI. Decr. 2 Mart. 1679, Prop. lviii. lx.—For a discussion on the subject, see Salmanticens. Cursus Theol. Moral. Tract. XVII. cap. ii. n. 164-7. Also, Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. cap. 1, Dub. 2, n. 9.

[3] The Instructions of S. Carlo were printed by the assembly and addressed to all the bishops of France, with a circular, in which it is said "Nous avons été sensiblement touchez de douleur voiant la facilité malheureuse de la plus-part des confesseurs à donner l'absolution à leurs penitens sous des pretextes pieuses de les retirer peu à peu du peché par cette douceur et de ne les porter pas dans le desespoir ou dans un entier mépris de la religion."—Arnauld, Théol. Morale des Jésuites, p. 363.

Juenin reluctantly admits.[1] La Croix, in fact, not only claims that it is the universal custom of the Church, but that the rigorists manifest lack of faith in the grace of the sacrament when they require amendment as a condition of absolution.[2] Besides, Aquinas had pointed out that in the forum of the confessional the penitent is the sole witness both for and against himself, from which it was argued that nothing more could be required of him than a profession of a desire to amend his ways,[3] and even more lax than this was the advice of some casuists that with "fragile" penitents confessors should tell them not to think about the future; present intention suffices, and they can piously trust to God to be merciful whatever may happen.[4]

In 1725, Benedict XIII. in his instructions for children, specified the intention to sin no more as indispensable for the sacrament of penitence,[5] and he approved the twelve articles presented to him by Cardinal Noailles, among which was one forbidding absolution to those whose signs of sincere conversion were doubtful.[6] Yet Reiffenstuel repeats the opinion of Tamburini that no formal or actual intention to abstain is requisite, for it is sufficiently implied in the act of contrition,[7] and this was regarded by the probabilists as the more probable opinion, and therefore the one to be followed in practice, though La Croix tells us that if the penitent happens to think of it he ought to utter an expression of an intention not to sin, in order to avoid

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[1] Juenin de Sacramentis Diss. VI. Q vii. cap. 4, Artt. 5, 6, 7.

[2] La Croix Theol. Moral. Lib. VI. P. ii. n. 1231.—"Ex dictis sequitur non prærequiri probationem vitæ emendatæ, quidquid putaverint similes Rigoristæ dicentes per emendationem explorandum esse an pœnitens habuerit verum dolorem necne. . . . Deinde universalis praxis Ecclesiæ est contraria; ergo plane imprudenter hoc requireretur. Denique hoc ipsum est specialiter contra fidem sacramenti, cujus gratia per absolutionem causata debet juvare ad emendationem vitæ; ergo male prærequiretur emendatio ante absolutionem."

[3] S. Th. Aquinat. in IV. Sentt. Dist. XVII. Q. iii. Art. 3 ad 2.—Jo. Sanchez Selecta de Sacramentis, Disp. IX. n. 6.—Francolini Clericus Romanus munitus Disp. X. n. 9.

Pontas (Dict. de Cas de Conscience, s. v. *Absolution* cas 8, 13, 29) disapproves of this as a principle which is not to be followed in practice, but he can only suggest that the matter must be left to the judgment of the confessor.

[4] Zuccherii Decisiones Patavinæ, Jan. 1707, n. 29.

[5] C. Roman. ann. 1725, p. 441.—Coll. Lacens. I. 458.

[6] Atti e Decreti del Concilio di Pistoja, pp. 99–100.

[7] Reiffenstuel Theol. Moral. Tract. XIV. Dist. vi. n. 49.

exposing the sacrament to the danger of nullity.[1] Benedict XIV. argues that the confession is valid if the penitent believes that he will promptly repeat the same sins, and some of the moralists assert that sufficing detestation of sin is compatible with the admitted certainty of relapse.[2] As a sort of compromise a custom arose of prescribing in advance a penance to be performed whenever the sin should be repeated, such as the recitation of a third of the Rosary. Benedict XIV. seems to see nothing objectionable in this, except that the performance is not obligatory, because it is medicinal and not sacramental,[3] and it is approved by theologians of both the rigorous and laxer schools,[4] but Liguori discountenances it, saying that the result is generally unfortunate;[5] in fact the penitent must almost infallibly regard it as sufficient expiation, under which he can continue to sin indefinitely with a safe conscience.

It is evident that the class known as habitual sinners offers a problem difficult to solve—indeed, one which the Church has not yet succeeded in solving if we may judge from the variety of methods proposed. Tamburini cut the Gordian knot by the application of the doctrine of advertence and argued that habitual sins are only material and not formal, through lack of the requisite degree of advertence, and therefore need not be confessed.[6] Arsdekin assumes that the universal practice is to absolve the sinner as often as he presents himself; to postpone absolution is merely to stimulate the sinner to fresh sins in the expectation of getting them remitted

[1] La Croix Theol. Moral. Lib. VI. P. ii. n. 893.

[2] Bened. PP. XIV. Casus Conscientiæ, Aug. 1743, cas. 3.—Marchand Trib. Animarum Tom. I. Tract. IV. Tit. iii. Q. 3, Concl. 2—Sporer Theol. Moral. T. III. P. III. n. 310.

Chiericato (De Pœnit. Decis. XIII. n. 15) ingeniously explains this doctrine by pointing out that intention is an act of the will which may resolve not to sin, while the intellect independently recognizes the futility of the resolution.

[3] Bened. PP. XIV. Casus Conscientiæ, Dec. 1742, cas. 1.—There are, however, theologians who assert the more probable opinion to be that such conditional penance is binding.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1229.

[4] Azpilcuetæ Man. Confessar. cap. xxvi. n. 25.—Henriquez Summæ Theol. Moral. Lib. V. cap. xxi. n. 1.—Gobat Alphab. Confessar. n. 755.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1248.—Clericati de Pœnit. Decis. XXXIV. n. 14. —Habert Praxis Sacr. Pœnit. Tract. V. Reg. 2.—Th. ex Charmes Theol. Univ. Dissert. V. cap. 5, Q. 2, Concl. 2.

[5] S. Alph. de Ligorio Praxis Confessar. cap. I. § ii. n. 13.

[6] Tamburini Method. Confess. Lib. II. cap. iii. § 3, n. 23–25.

together; he argues that this is not in contravention of the decree of Innocent XI., and he clinches the matter by asking the more rigorous confessor how he would like to be so treated himself and thus be practically suspended from his functions.[1] Salvatori, who is not a decided laxist, says that if an habitual sinner shows signs of repentance he should be absolved without postponement, and relates an experience of S. Filippo Neri with a youth of this class who had been refused absolution by all the confessors to whom he had applied. The saint absolved him at once, imposing only the penance of confessing again when he should relapse. Three days afterwards he returned with the same sin and Filippo again absolved him. This went on for some months until the victory was gained and the youth finally reached a stage of angelic perfection.[2] On the other hand, there are both laxists and rigorists who argue against the too easy absolution of sinners who show no signs of amendment, and it is agreed that immediate relapse without resistance argues that there was no sufficing attrition and therefore the prior confession is invalid and must be repeated.[3] The Roman Ritual, too, warns the confessor not to absolve those who refuse to abandon their sins and amend their lives.[4] In practice, however, all this seems easily to be explained away. Palmieri tells us that the common acceptation of the intention to sin no more is that it suffices if it is virtual.[5] Mach admits that habitual sinners offer a difficult problem, but he argues that if a man returns again and again with the same sin it is an evidence in his favor; to deprive him of the sacraments would be to deprive him of the most efficacious means of grace, and every effort should be made to save his soul and not to drive him to despair.[6] Father Joseph Faà di Bruno is careful to explain to the penitent that in expressing a resolution to sin no more "you do not thereby impose on yourself

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[1] Arsdekin Theol. Tripart. P. III. Tract. 1, cap 3, Q 13, 14.

[2] Salvatori, Istruzione per i novelli Confessori P. II. § 1.

[3] Th. ex Charmes Theol. Univ. Dissert. V. cap. vi. Q. 5 § 3.—Alasia Theol. Moral. T. II. p. 334 (Taurini, 1834).—Gerdil, Parere sulla Lettera Pastorale di Mgr. N. N. (Opp. Ed. Napoli, 1855, T. VI. p. 505).—Habert Theol. Moral. De Pœnit. cap. XI. § iii. Q. 2.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 505. —Gousset Théol. Morale II. n. 442.

[4] Rituale Roman. Tit. III. cap. 1.

[5] Palmieri Tract. de Pœnit. p. 214.

[6] Mach, Tesoro del Sacerdote, II. 261–2 (Torino, 1876). As this work bears the approbation of the Sacred Congregation of Rites, June 27, 1864, I presume it may be regarded as a safe guide.

a fresh obligation,"[1] while Father Müller counsels charity and quotes approvingly a dictum of Liguori that to defer absolution in such cases for entire months is a doctrine of the Jansenists.[2] The Tridentine Catechism had warned the confessor that the chief thing he has to dread is that a penitent dismissed without absolution will return no more,[3] and the warning apparently is heeded.

Intimately connected with the question of the intention to sin no more is another of supreme importance, which has been the subject of prolonged debate—the obligation to avoid all occasions and temptations of sins. This was implied in the disabilities inflicted on public penitents in the early Church, forbidding them to engage in trade or military service, neither of which could be followed without sin. Although during the period of the Penitentials we hear little of this, it was retained, as we shall see, in the solemn penance in so far as that obsolescent rite survived during the later middle ages. Some attempts were made to apply it to private penance. Gregory VII., at the council of Rome in 1078, and Urban II., at the council of Amalfi in 1089, denounced as false the penance of those who did not abandon the callings in trade or courts which could scarce be carried on without sin, and this utterance was confirmed in the council of Clermont in 1095, repeated in the second Lateran council of 1139, and embodied in the compilation of Gratian.[4] Possibly this gave rise to the explanation which Peter the Deacon offers of the crusading enthusiasm shown at the council of Clermont—that penitents preferred the toil and dangers of the crusade to living unarmed among their neighbors.[5] It gave the principle moreover a standing in the confessional, which led Cardinal Henry of Susa, when commenting upon the canon, to explain that the abandonment of war and commerce is to be understood as applying to those subjected to solemn

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[1] Joseph Faà di Bruno, Catholic Belief, p. 310.

[2] Müller's Catholic Priesthood, III. 159–64. Cf. Gury, Comp. Theol. Moral. II. 632–8, with Ballerini's notes and the arguments of the Redemptorists in the *Vindiciæ Alphonsianæ* pp. 660 sqq.

[3] Catech. Tridentin. de Pœnit. cap. xi.—"Quoniam sacerdoti maxime verendum est ne semel dimissi amplius non redeant."

[4] C. Roman. ann. 1078, cap. 5; Synod. Urban. ad Melphiam ann. 1089, cap. 16; C. Claromont. ann. 1095; C. Lateran. II. ann. 1139 (Harduin. VI. I. 1581; VI. II. 1687, 1736, 2212).—Cap. 6, 8, Caus. XXXIII. Q. iii. Dist. 5.

[5] Chron. Casinens. Lib. IV. cap. xi.

penance who are not expected to lead a secular life,[1] but shortly afterwards St. Bonaventura treats as in force for all penitents the rule that the soldier or trader must abandon his calling before he can obtain absolution,[2] and John of Freiburg virtually repeats the injunctions of Gregory VII. and Urban II. as applicable to all cases.[3] A quaint anonymous penitential of the period instructs the confessor always to inquire the trade of a penitent, for there are some callings wholly sinful, such as those of strumpets and actors, some can scarce be followed without sin, like trade; some are entirely useless, such as flower-weaving and dice-making; some are necessary but can hardly be exercised faithfully, as those of stipendiaries [vicars?] and schoolmasters. When prostitutes and actors come to confession they are not to be admitted to penance unless they abandon their callings, for they cannot otherwise be saved.[4] Dr. Weigel holds that the abandonment of evil trades is a necessary feature of sufficing contrition, and the refusal to do so is equivalent to selecting eternity in hell.[5] St. Antonino directs the confessor to disregard the penitent's despair and to refuse absolution to those who will not live chastely or abandon sinful means of livelihood; making dice, for instance, is a mortal sin, and the business must be given up before absolution can be granted, and Savonarola extends this to making and dealing in cards.[6] Angiolo da Chivasso is less rigid; the confessor should scold and admonish the penitent to abstain from all evil companionship and other causes of sin, but he must not exact an oath or even a promise to do so,[7] while, on the other hand, the usually lax Prierias refuses absolution to one who will not abandon a

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[1] Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remiss. § 51.

[2] S. Bonaventuræ Confessionale cap. iv. Partic. 1.

[3] Jo. Friburgens. Summæ Confessar. Lib. III. Tit. xxxv. Q. 126.

[4] Döllinger, Beiträge zur Sektengeschichte der Mittelalters, II. 623–4. The good father asks why the Church does not suppress prostitutes in place of enduring them, so that they are seen in the courts not only of princes, but of bishops. He finds the answer in the universal frailty of the flesh, so that scarce any one can be persuaded to continence, wherefore strumpets are endured by the Church and in the Church for the avoidance of greater evils.

[5] Weigel Clavic. Indulgent. cap. xlv.

[6] S. Antonini Summæ P. III. Tit. xvii. cap. 20; Ejusd. Confessionale fol. 32*b*.—Savonarolæ Confessionale fol. 59.

[7] Summa Angelica s. v. *Interrogationes*.

sinful trade—he is to be told that such absolution would be invalid, and is to be left to the mercy of God.[1]

The council of Trent paid no special attention to the question beyond the general principle of excluding the will to sin in its definition of attrition,[2] but the exigencies of the Counter-Reformation called forth more rigid teachers who greatly extended the sphere of the confessor's supervision over the lives of his penitents. S. Carlo Borromeo found in this a field for the exercise of his rigorous virtue and dilates upon it in much detail. The concubinarian must abandon his mistress, the professional gambler give up his calling; arms, trade, the magistracy, the law, all lead to sin, and unless the penitent can follow his profession without sinning he must quit it; besides, there are such occasional causes as evil companionship, going to balls, idleness, frequenting taverns, etc., all of which fall under the care and responsibility of the confessor, who may absolve once or twice on promise of amendment, but not oftener, and must then refuse the sacrament until he has proof that the occasion of sin has been abandoned.[3] St. Francis Xavier had laid down a virtually similar rule, and the Roman Ritual forbids a confessor to absolve a penitent who will not abandon a proximate occasion of sin;[4] but while the opportunity which this gave to the spiritual director of controlling his penitents was eagerly embraced, it was easy to find arguments for the exercise of opportune laxity. Occasions of sin were distinguished into proximate and remote, the differentiation of which was very clear in theory, but its application in practice was admitted to be almost impossible,[5] while at the same time it facilitated a decision in whatever sense the confessor might desire, for the remote occasion need not be avoided while the proximate must be.[6] The Jesuit Fornari shows us, in the nice distinctions which he draws, how completely the matter was in the hands of the confessor, to be severe or lenient at his discretion. The penitent, he says, is not bound to remove a remote occasion of sin, nor even a proximate one, if he is

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[1] Summa Sylvestrina s. v. *Confessor* IV. § 3.

[2] C. Trident. Sess. XIV. De Pœnit. cap. 4.

[3] S. Carol. Borrom. Instruct. Confessar. pp. 63–66. Cf. Zerola Praxis Sacr. Pœnit. cap. xxvi. Q. 17.

[4] S. Francesco Saverio Avvisi ai Confessari.—Rituale Roman. Tit. III. cap. 1.

[5] Jo. Sanchez Selecta de Sacramentis Disp. X. n. 3.

[6] Marc Institt. Moral. Alphonsianæ n. 1819.

contrite and there is a probable opinion that he will resist the temptation, nor if it will cause scandal, or grave inconvenience, loss of honor or of reputation or of worldly goods. Such remedies as frequent use of the sacrament should be tried; if these fail, the question of absolving him is difficult; if he shows signs of contrition and amendment he should be absolved; if not, absolution should be refused and cautious efforts be made to separate him from his partner in guilt.[1]

This reflects the line of argument adopted by the fashionable moralists of the seventeenth century. It was highly important for those who occupied the post of confessors in the courts of kings and in the houses of great nobles to be able to reconcile the sacraments with the presence of "proximate causes" of sin, and rules which permitted this could also be made applicable to their mistresses, their servants, and the large portion of the community whose avocations were more or less sinful. The readiest mode to accomplish this was the principle that the avoidance of the occasion of sin is not obligatory when it may cause scandal or too great a loss or inconvenience, and this became the accepted teaching.[2] Some of the deductions from this principle were so audaciously lax as to call down condemnation from Alexander VII. in 1666, and Innocent XI. in 1679,[3] but the principle itself was not condemned, and Viva's

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[1] Mart. Fornarii Institt. Confessar. Tract. II. cap. 15 Cf. Jo. Sanchez Selecta de Sacramentis Disp. X. n. 20.

[2] Jo. Sanchez Selecta de Sacramentis Disp. X. n. 11. 20.—Escobar Tract. VII. Exam. iv. cap. 8, n. 44.—Berteau, Director. Confessar. p. 339.—Layman Theol. Moral. Lib. V. Tract. vi. cap. 4, n. 9.—Gobat Alphab. Confessar. n. 527, 530. —Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. cap. 1, Dub. 2, n. 8, 10.

Busenbaum merely embodied in concise and convenient shape the lax doctrines current among the theologians of the period. His work had a phenomenal success for a century, for the number of its editions is reckoned at nearly two hundred. See De Backer, II. 87, VII. 161. It formed the basis of two of the great moral theologies of the eighteenth century, La Croix and Liguori, though the latter, after the expulsion of the Jesuits from France and Spain, seems to have grown somewhat ashamed of it (Dichiarazione del Sistema che tiene l'Autore, n. 1.).

[3] "Non est obligandus concubinarius ad ejiciendam concubinam si hæc nimis utilis esset ad oblectamentum concubinarii, vulgo *Regalo*, dum deficiente illa nimis ægre ageret vitam et aliæ epulæ tædio magno concubinarium afficerent et alia famula nimis difficile inveniretur."—Alex. PP. VII. Decr. 18 Mart.

commentaries on these papal utterances show how the nice distinctions drawn between the various degrees of moral impossibility which justify the sinner in continuing to expose himself to temptation render the subject one in which the honest confessor may grope blindly while the dishonest one can justify his penitent in following his inclinations.[1]

All theologians were not thus lax. Henriquez, though by no means a rigorist, orders absolution to be deferred until proximate occasions are removed, irrespective of temporal disadvantage, and even Caramuel, under pressure of the Roman censorship, insists strongly on this point.[2] The Gallican rigorists were of course severe in regard to it. Juenin demands the rigid enforcement of the rules prescribed by S. Carlo Borromeo; the confessor is warned that he must not allow himself to be moved by the tears of a woman who, if she abandons her lover, will be exposed to starvation, and if she stays with him hopes that he will marry her; a trader may be granted a respite, but if he repeatedly yields he must leave his trade if he expects absolution; and Cardinal de Noailles included this principle in the articles approved by Benedict XIII.[3] Benedict XIV., however, was not quite so rigid, and recognized that concessions must be made to the weakness of human nature, which is incapable of the sacrifices demanded.[4] The long and intricate discussion of the subject by Liguori shows its inherent difficulty as well as the importance ascribed to it. In principle he follows his model, Busen-

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1666, Prop. XLI. (Juan Sanchez, *ubi sup.*, was the author of this proposition).

"Potest aliquando absolvi qui in proxima occasione peccandi versatur quam potest et non vult omittere, quinimmo directe et ex proposito quærit aut ei se ingerit."—Innoc. PP. XI. Decr. 2 Mart. 1679, Prop. LXI.

"Proxima occasio peccandi non est fugienda quando causa aliqua utilis aut honesta non fugiendi occurrit."—Ib. Prop. LXII.

"Licitum est quærere directe occasionem proximam peccandi pro bono spirituali aut temporali nostro vel proximi."—Ib. Prop. LXIII.

[1] Viva, Theol. Trutina in Prop. XLI. Alex. VII. n. 2.

[2] Henriquez Summæ Theol. Moral. Lib. VI. cap. xxviii. n. 3.—Caramuelis Theol. Fundament. n 511-17.

[3] Juenin de Sacramentis Diss. VI. Q. vii. cap. 4, Art. 8.—Atti e Decreti del Concilio di Pistoja, p. 99.

[4] Benedicti PP. XIV. Casus Conscientiæ, Apr. 1739, cas. ii. iii.; Jun. 1739, cas. i.

baum; great loss or inconvenience render the occasion of sin one of those necessary ones which must be endured; if abandoning a calling will disable a penitent from living according to his station he can continue in it, but he asserts that his own practice was more rigid, and he wishes that all confessors would do likewise, for in such case there would be very much fewer sins committed and souls lost, as experience shows that penitents when absolved for the most part neglect their promises and relapse with the greatest ease. For himself, he would scarce allow a betrothed man during his engagement to visit more than once or twice the house in which his future bride resides, in view of the sinful desire which her presence must excite. Yet the nice distinction of danger into *periculum formale* and *materiale*, and of occasions of sin into *remota* and *proxima*, *proxima per se* and *per accidens*, *intrinsica* and *extrinsica*, *necessaria* and *voluntaria*, *in esse* and *non in esse*, show how readily the confessor can lose himself in a cloud of metaphysical subtilties in which he can find justification for any desired conclusion.[1] Modern teaching for the most part follows Liguori, though a recent Spanish manual goes far beyond him in instructing the confessor to use every effort to detach his penitent from all occupations and amusements which may distract from supererogatory works of piety, even though they may not interfere with the recognized works of precept.[2] The priest thus has the widest discretion in regulating the lives of those under his direction, though under the rules of probabilism, as we shall see hereafter, an instructed penitent, if he sees fit to exercise his power of choice, can compel his confessor to grant him absolution, for there are a sufficient number of doctors ranged on either side to render both the lax and the rigid opinions probable. This may explain the extreme laxity of practice which in courts so long rendered licence compatible with the observances of religion,[3] and it is an encouraging evidence

[1] S. Alph. de Ligorio Theol. Moral. Lib. III. n. 438-41; Lib. V. n. 63; Lib. VI. n. 452-61.—In his *Praxis Confessarii*, n. 66-9, he is somewhat more rigid.

[2] Mach, Tesoro del Sacerdote, II. 259.—Müller, Catholic Priesthood, III. 150 sqq.—Sala, Prontuario del Confessor, p. 11 (Vich, 1866).

[3] "Se habia descubierto el medio de servir juntamente á Dios y al mundo, de juntar un continuo regalo con exterior devocion, una vida licenciosa con mucha freqüencia de sacramentos, una conciencia serena en medio de gravísimos peligros."—Pastorales de Don Francisco Armañá, Obispo de Lugo, p. 326 (1773).

of improvement that the most recent commentator on Liguori lays down the rule that probabilism is not to be employed in deciding cases of proximate occasions of sin.[1]

These questions, so earnestly debated, are of no little importance to confessors who have in charge the rich and governing classes and to spiritual directors who undertake the guidance of individuals, for they afford the opportunity of making the priestly influence felt in all the details of daily life, but to parish priests and their flocks, except in scattered rural districts, there can scarce be opportunity for the application of the principles involved. When the parishioners of a large parish confine themselves to the precept of annual sacraments and flock to Easter confession to a priest enclosed in a confessional, there can be no opportunity for the minute consideration of individual cases or of watching them and observing whether absolution is followed by amendment or whether proximate occasions of sin are avoided. In fact, however rigid may be the regulations of the Church, the habitual practice must be lax, else war and commerce, litigation and social life in Catholic lands would show some results of their influence. Theatres and ball-rooms, houses of prostitution and foundling hospitals and the petty swindles of trade are the standing evidence that the precepts of the Church as to the avoidance of occasions of sin are generally recognized as impracticable among populations which at the same time are tenacious of the observance of the sacraments.

Another requisite essential to the validity of confession is the forgiveness of injuries and the eradication from the heart of all sentiments of hatred. As one of the foundation principles of Christ's teaching, and implied in one of the chief petitions of the Lord's Prayer, this could not be otherwise, and we have seen how prominently it figured among the seven sources of pardon before the development of the power of the keys. It is never lost sight of in the prescriptions of the theologians, the unanimity of whose utterances renders their individual citation superfluous, and I need only quote the very complete and emphatic utterance of the Tridentine Catechism in its definition of contrition.[2] Thus refusal to return the salute of

[1] Marc Institt. Moral. Alphonsianæ, n. 83.

[2] Catch. Trident. De Pœnit. cap. vi. In the English version "In the fourth and last place, and the condition is no less important, true contrition must be

an enemy or to accept his social invitations is an evidence of abiding rancor which unfits the penitent for the sacrament.[1] Yet even this did not escape the insatiable ardor of the casuists, and the distinctions which they draw come perilously near in practice to obliterating the line between forgiveness and revenge.[2] It is possible that the continued enunciation of the precept in the confessional may have had some influence in softening the ferocity of manners and in bringing home to the conscience the injunctions of Christian charity, but the social condition of Christendom since the institution of enforced confession shows that the rule of the abandonment of hatred as a preliminary to absolution can never have been effectively insisted upon. But in this, as in so much else, the artificial system built up with such infinite care had to accommodate itself to the imperfections of human nature, and it became admitted that confession could lawfully be postponed when a man suffering under a grievance was not in a congruous disposition for the sacrament.[3] This sometimes continued for prolonged periods. In the trial by the Inquisition of Toledo, in 1564, of a certain Pierre de Bonneville for Lutheranism, he said that he had not confessed or taken communion for two years because of his hatred for Diego del Campo, a rival in trade, who had grievously injured him.[4] Evidently such abstention was a recognized precaution, and it is further illustrated by the case of Fray Manuel Gorvea, a learned and pious Dominican of Oaxaca in Mexico, who, in 1798, declined the priorship of Tehuantepec, to which he had been elected, for the reason that he was not in condition to discharge the duties of the position, because he had not confessed or communed for three years in conse-

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accompanied with forgiveness of the injuries which we may have sustained from others. This our Lord emphatically declares and energetically inculcates when he says 'If you will forgive men their offences, your heavenly Father will forgive you also your offences; but if you will not forgive men neither will your Father forgive you your offences.'"

[1] Gobat Alphab. Confessar. n. 224-5.

[2] Viva Theol. Trutina in Prop. XIII. XIV. XV. Innocent. PP. XI.

[3] Clericati de Pœnit. Decis. XLIX. n. 12.—Yet Benedict XIV. says of a case in which a man abstains for three years from confession and communion for fear of committing sacrilege because he cannot overcome his hatred for the slayer of his brother, that in so doing he commits six mortal sins, one for each confession and each communion omitted.—Bened. PP. XIV. Casus Conscientiæ Apr. 1737, cas. 2.

[4] MSS. Königl. Universitäts Halle, Yc. 20 T. V.

quence of a secret hatred, which he could not overcome, against a fellow Dominican, Fray Rodriguez. In view of the weekly confession required of members of religious orders, this could scarce have escaped attention, but Fray Gorvea apparently did not suffer in the estimation of his brethren, for he was subsequently chosen to be Provincial of his Order.[1] Thus the regulation intended to render the confessional a valuable discipline in Christian charity, has, in some cases at least, only resulted in rendering it nugatory. It should be added that the prescription of forgiveness only applies to private rancor, and does not prevent an injured party from prosecuting an offender or having recourse to legal remedies.[2]

A further prerequisite for absolution is the restitution of property unjustly acquired and reparation for any injuries inflicted, where this is possible. It would be superfluous to insist on this as a necessary element in any repentance worthy of the name: it was so regarded in the early Church, and St. Augustin emphatically declares that, where it is possible and is not performed, penitence is but pretence and sin can expect no pardon.[3] In the crude compilations of the Penitentials this is recognized confusedly: the good fathers who were struggling to soften the manners of their barbarian converts adapted themselves to the customs of the savage tribes, without much care for consistency or regard for the distinction between the *forum externum* and *internum*, so long as they could bring the offender to acknowledge his guilt and to make amends to God and man. They found the principle of the *wer-gild* everywhere established, whereby all offences against person and property were reckoned in money value, and codes were scarce more than tariffs of compensations to be accepted by the injured party if he chose to forego his right of private vengeance. The rude courts of the period were for the most part impotent to enforce these penalties, and the peace-loving missionaries of Christ sought to aid them by taking the payment into account in fixing the penance of the offender, while they further endeavored to throw the protection of the Church around the slave, who had no personal rights under the law. Thus, in a body of ancient Welsh canons, a man seducing a virgin or a widow must pay

[1] MSS. of David Fergusson, Esq.

[2] Salvatore, Istruzione pratica per i novelli Confessori, P. I. § xi.

[3] S. Augustin. Epist. CLIII. cap. vi. n. 20, ad Macedon.

the dower to the kindred, besides undergoing a year's penance.[1] In an Irish Penitential, infliction of blows or wounds by a layman is visited with forty days' penance and a payment to the injured party to be estimated by a priest or a just man, and a very similar provision, with the addition of providing a leech, is found in a late penitential in which there are few barbarian elements.[2] In another, an adulterer pays to the injured husband the price of his wife's chastity, and in the same collection there is an instance of what we shall see largely practised in subsequent ages, in which the payment goes not to the sufferer but to the poor, or rather to the Church: a man guilty of theft undergoes one year and three quarantines of penance, besides giving alms to the poor and a banquet to the priest.[3] In another, a man who carries off a girl pays her *wer-gild* to the kindred and marries her if they so desire, in addition to which both undergo fasts for a year; for burglary committed on a church the penance is seven years, in addition to making good the damage inflicted.[4] A canon widely current provides that a cleric who commits homicide shall undergo ten years' penance and serve the parents of the slain, replacing their lost son; if he refuses, he is to be banished for life and become a wanderer like Cain.[5] A man who has a child by his slave-girl shall set her free and undergo a year's penance.[6] Even more remarkable in its care for the slave is the provision that if a man seizes the earnings of his bondman he shall make restitution and undergo penance at the discretion of the priest.[7] Instances of the use made of the penitential system to promote the settlement of feuds by inducing the payment of compositions are frequent. Thus, in Theodore's Penitential, homicide committed through revenge for a slaughtered kinsman is subject to seven or ten years'

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[1] Lib. Davidis § 6 (Wasserschleben, p. 101).

[2] Pœnit. Vinniai § 9; Pœnit. Pseudo-Roman. cap. viii. § 7 (Wasserschleben, pp. 110, 369).

[3] Pœnit. Columbani B. cap. xiv. xix. (Ibid. 357, 358).

[4] Pœnit. Ps. Ecberti Lib. IV. cap. xiii., xxiv. (Ibid. 334, 336).

[5] Pœnit. Columbani B. cap. 1; Pœnit. Merseburg. *a*, cap. 1; Pœnit. Bobiens. cap. 1; Pœnit. Parisiens. cap. 1 (Ibid. pp. 355, 391, 407, 412).

[6] Pœnit. Merseburg. *a*, cap. 60; Pœnit. Cummeani cap. iii. § 32; Pœnit. Vallicell. II. cap. 35 (Ibid. pp. 397, 474, 561).

[7] Pœnit. Theodori cap. xix. § 30 (Thorpe's Ancient Laws, II. 19). In the recension given by Wasserschleben (p. 217) there is only a simple prohibition, without a penalty, and so also in Pœnit. Ps. Ecberti, Addit. § 35 (p. 348).

penance, but if the slayer will pay the *wer-gild* of the slain, his penance is shortened by one-half. So with theft; if the penitent will seek reconciliation with the injured party and make restitution, he is told that it will greatly shorten his penance, but if he cannot or will not do so, he must endure to the end.[1] In a later collection, to which the name of Theodore was ascribed, the general rule is expressed that a homicide or thief, who has not compounded with the injured party, if he comes to priest or bishop for confession, must forthwith make such composition; if he is too poor to do so, or does not know who are the injured parties, his penance is to be augmented.[2]

The principles thus established continued in force when the *wer-gild* was dying out and settled laws were commencing to replace the reign of brute force. In the eleventh century Bishop Burchard tells us that if a man injures another in a quarrel he must pay the expenses of the physician and perform penance; if he is unable to do this his penance is for a year; if he sheds blood treacherously he must pay for the injury either in money or in labor and fast on bread and water for forty days.[3] Thus the Church preserved the tradition that restitution or reparation must accompany repentance, and in its efforts to enforce this it unquestionably rendered a signal service to the cause of slowly advancing civilization, though the age was too rude to accept it as a general principle, and its enunciation in special cases was still required, as when, in 1095, the council of Clermont decreed that if a man had seized another's heritage no priest should receive him to penitence until he had rendered due satisfaction.[4] How difficult it still was to establish the principle in daily practice is seen in a case in which a man burnt a neighbor's house, refused reparation and was excommunicated, to evade which he secretly confessed the crime to the priest, while still refusing to make compensation. The case was considered so doubtful that it was referred to St. Ivo of Chartres to decide whether the priest should receive him to communion, and St. Ivo returned an equivocal answer which was meaningless.[5]

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[1] Pœnit. Theodori Lib. I. cap. iv. § 1; cap. iii. § 3 (Wasserschleben, p. 187).

[2] Capitula Dacheriana, cap. 89 (Wasserschleben, p. 153).

[3] Burchardi Decret. Lib. XIX. cap. 101.

[4] C. Claromont. ann. 1095, cap. xxi.

[5] S. Ivon. Carnotens. Epist. CLVI.

When the schoolmen commenced to reduce everything to system, they naturally treated this as a general precept. Peter Lombard quotes S. Augustin, and in almost the same words asserts that no one who has unjustly taken anything which he is able to restore must imagine that he repents and can obtain pardon unless he makes restitution.[1] That this should become generally accepted was a matter of course, though the difficulty of practically establishing it is indicated by Alain de Lille alluding to it as a counsel and not a precept.[2] About 1198, Eudes of Paris, and, in 1217, Richard Poore of Salisbury, however, instructed their priests that in cases of robbery, rapine, usury and fraud, restitution is obligatory, and penance is not to be assigned until it is made, an example which was followed in sundry other local councils.[3] The principle soon became recognized, and St. Ramon de Peñafort was able to declare it a settled rule that for sins such as simony, usury, rapine, arson, sacrilege, theft, etc., no penance could be awarded without restitution.[4]

The question speedily arose whether restitution thus made by order of the confessor is part of the penance or satisfaction, and whether it thus has a sacramental character. Bishop William of Paris seems to have been the first to pronounce on this by declaring that it is no part of satisfaction, but simply that without it sin cannot be remitted,[5] yet some thirty years later St. Bonaventura tells us that it was commonly though erroneously reckoned as part of satisfaction. The latter, he explains, is a penance voluntarily assumed, to which the penitent is only bound by his sin and the judgment of the priest, while restitution is a duty to which he is bound by law, whether the priest imposes it or not; and in another passage he speaks of it as a condition precedent to absolution, without which no penance enjoined will profit the penitent.[6] Both the leaders of the two great schools of medieval theology, Aquinas and Duns Scotus,

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[1] P. Lombardi Sentt. Lib. IV. Dist. XV. § 7.

[2] Alani de Insulis Lib. de Pœnit. (Migne, CCX. 304).

[3] Odonis Constitt. cap. vi.; Rich. Poore Constitt. cap. ix.; Walteri Dunelmens. Constitt. ann. 1255; C. Claromont. ann. 1268, cap. vii. (Harduin. VI. II. 1940; VII. 91, 492, 597).

[4] S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.

[5] Guillel. Paris. de Sacr. Pœnit. cap. 20.

[6] S. Bonaventuræ in IV. Sentt. Dist. xv. P. ii. Art. 2, Q. 4.—Confessionale cap. iv. Partic. 2.

take the same view; it is simply cessation from sin, requisite to salvation; it is not satisfaction, but a condition indispensable to it, and merely an act of justice.[1] This became the accepted doctrine of the Church, though as late as the sixteenth century Prierias allows us to infer that there were doctors who still maintained it to be a portion of satisfaction, and even in the eighteenth century Reuter says that restitution, reconciliation with enemies and avoidance of occasions of sin can be imposed as penance.[2]

As it thus became the duty of the confessor, before conferring absolution, to see that the penitent made restitution and reparation for all unjust gains and wrongs inflicted, a new and enormously wide sphere of influence and of control over the fortunes of his flock was opened to him. The theologians explored this diligently and extended its boundaries in every direction, not as a simple academic question, but as a practical matter essential to the proper discharge of the duties of the confessional. Aquinas, treating it rather from a moral than from a sacramental standpoint, says that reparation should be made for injuries to reputation, even when they arise from unnecessarily revealing a crime actually committed; if the evil cannot be undone, the reparation should be made in money. Princes, he argues, through whose negligence robberies are committed, should refund their losses to the sufferers, for their revenues are payment for enforcing justice.[3] Cardinal Henry of Susa, treating the subject as a practical matter, had already given it an elaborate discussion, which shows how intricate and perplexing were the responsibilities assumed by the Church in undertaking to control the conscience of each of its children. Spoils made in a just war, he says, may be righteously kept, but those gained in an unjust war must be restored, and he proceeds to consider the restitutions due from false witnesses, corrupt judges and officials, the promulgators of unjust laws, the dealings of merchants, the subterfuges of usurers, the manufacture of weapons, etc.[4] There was not a sphere of human

[1] S. Th. Aquin. in IV. Sentt. Dist. xv. Art. 4 ad 5; Summæ Sec. Sec. Q. lxii. Art. 2.—Jo. Scoti in IV. Sentt. Dist. xv. Q. 2.

[2] S. Antonini Summæ P. III. Tit. xiv. cap. 20.—Gab. Biel in IV. Sentt. Dist. xv. Q. ii. Art. 2, Concl. 3.—Summa Sylvestrina s. v. *Satisfactio* § 10.—Reuter Neoconfessarius instructus n. 17.

[3] S. Th. Aquinat. Summæ Sec. Sec. Q. LXII. Art. ii. ad 2, Art. viii.

[4] Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remiss. § 61.

activity, from the loftiest to the humblest, which was not thus subjected to the tribunal of the confessional with the priest as its arbitrary and irresponsible judge, except, as we shall see hereafter, in so far as he might be controlled by the "probable" opinion of the penitent. The immense space given in the books to the exhaustive discussion of all the intricacies of human transactions in their bearing upon the duty of restitution reflects at once the difficulty of the subject and its importance to every confessor. Each new teacher exhausted his ingenuity in extending the application of the principle, and many of their speculations are admirable inculcations of moral duty. Astesanus points out that in cases of injury to persons the canon law (Cap. 1 Extra Lib. v. Tit. xxxvi.) adopts the rule in Exodus xxi. 18–19, that the aggressor shall pay for the loss of time and expenses of the injured, but in the confessional the rule must be that if mutilation occurs the compensation should not only be this, but all damages arising during life from the loss of a member, with consolation for the affliction, and this should be larger and more carefully weighed in the case of a poor man dependent upon his labor than in that of a rich man. Injuries to the soul are to be even more scrupulously treated than those of the body; such injuries arise from leading astray or setting an evil example, and are to be rectified by bringing back the erring, or setting a good example or by praying and procuring prayers for him. The discussion and distinctions of all possible varieties of injury to body, soul, and reputation are interminable, and the amount of compensation proves a very troublesome and complex problem. It was even a disputed question whether one unable to make pecuniary restitution should surrender himself as a slave to the injured party.[1] Piero d'Aquila is equally emphatic, though not so diffuse; so delicate is his sense of the need of reparation that he considers the denial of a true accusation to be a wrong inflicted on the accuser, and though the accused cannot be expected publicly to admit that the accuser is not a calumniator, he must find some way to withdraw the imputation.[2] These were not mere refine-

[1] Astesani Summæ Lib. v. Tit. xxix. Artt. 2, 3, 4.

[2] P. de Aquila in IV. Sentt. Dist. xiv. Q. 2, 3.—Fra Piero is an example of the little connection between such teachings and moral principle. In two years, 1344 and 1345, while serving as inquisitor in Florence, he accumulated 7000 florins by outrageous extortion on the citizens and by selling licences to bear arms; he was prosecuted at the instance of the Republic, and was obliged

ments of the schools; the practical instructions to confessors carry the principle of restitution and reparation to impossible lengths, with great amplitude of examples, thus extending the jurisdiction of the confessional over every detail of private and public life. He who is responsible, by counsel or otherwise, for an unjust war is held bound to make compensation for all losses and damages thence arising; he who unjustly impedes any one from obtaining an office or benefice, secular or ecclesiastical, must render full satisfaction for the injury.[1] It was generally admitted that an advocate defending an unjust cause, or procuring unnecessary delays, or introducing quibbles, must make restitution to the injured party; if through imprudence or negligence his client suffers, he must make good the loss, as also if he serves for a percentage or charges inordinate fees, and the confessor is instructed to inquire minutely of his legal penitents as to all these matters. [2]As for the clergy, the holder of a benefice is only entitled to a decent and congruous support; if there is a surplus, he must distribute it to the poor; to spend it on luxuries or to accumulate it and bequeath it to relatives is a robbery of the poor and a mortal sin; he is bound to make restitution, nor can he obtain valid absolution without doing so.[3] Obedience to a sovereign does not justify a subject in following him to an unjust war, and any spoils taken in such war must be restored. To make restitution a man must strip himself to the barest necessaries of life, and those casuists

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to fly. He was a fit precursor of the Franciscans of the fifteenth century, of whom Pius II. remarked that they were excellent theologians, but, for the most part, cared nothing about virtue. See the Author's History of the Inquisition of the Middle Ages, II. 279; III. 173.

[1] S. Antonini Confessionale, fol. 28, 29.—Even in modern times Salvatori holds (Istruzione pratica per i novelli Confessori, P. I. § xiv.) that preventing an ecclesiastic from obtaining a benefice by telling the truth about him requires reparation before absolution can be granted.

[2] Bart. de Chaimis Interrog. fol. 69–70.—Em. Sa Aphorismi Confessar. s. v. *Advocatus* n. 1.

St. Augustin expressed a wish that lawyers who by improper means gain an unjust cause should be forced to return their fees, but he adds that many most learned and reputable men do this not only with impunity, but boastfully. It seems never to have occurred to him that it was a matter that could come within the jurisdiction of the Church.—Epist. CLIII. n. 25, ad Macedon.

[3] Clericati de Pœnit. Decis. x. n. 16–19. The question whether the duty of restitution devolves upon the heirs of such beneficiaries is a troublesome one on which opinions are divided.—Ib. n. 22.

are wrong who argue that if a defrauded man is rich the penitent need only give what he can conveniently spare.[1] These are not obsolete and antiquated questions; the large space given to their discussion by modern authorities, though not in quite so minute detail as by the older ones, shows that their study is still earnestly inculcated on confessors, while their intricate and complicated character causes many differences of opinion between the doctors.[2]

It would detain us too long to pursue the matter through endless debates which involve almost every human relation. It will suffice to glance at the discussion, which lasted for centuries, on the subject of adulterine children. A woman in confession reveals that she has been unfaithful to her husband, and that one of her children is the offspring of an adulterer, or a man confesses that he has seduced another's wife, and that he is the father of a child whom the unsuspecting husband is rearing as his own. What measure of restitution and reparation must the confessor prescribe before he can grant absolution, and how can the penitent make such reparation without rendering the guilt and shame public? Incidentally the question was decided by Innocent III., early in the thirteenth century, in response to a cardinal seeking his advice as to a woman who had confessed to him that she had foisted upon her husband a supposititious child, in order to prevent his inheritance passing to strangers. Innocent answers that she can be admitted to penance, provided the defrauded heirs are strangers, and that competent penance be imposed on her, and he supports this by adducing the case of a woman confessing that a child is adulterine.[3] As this decretal is embodied in the canon law, it must be held as in force, and as in neither case is there any allusion to compensation or reparation due to the defrauded heirs, it is evident that as yet these scruples had not assumed practical shape, and that such matters were prudently hushed. Yet within a quarter of a century of the publication of this decretal in the compilation of Gregory IX. we find Cardinal Henry of Susa treating the subject in a wholly different spirit. The confessor, he says, must act according to the quality and character of the parties. If the adulteress is one of those who, as they say in Lombardy, wear

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[1] Savonarolæ Confessionale, fol. 58.

[2] Summa Diana s. vv. *Restituere*, *Restitui*, *Detractio*, *Furtum*, *Pugna* etc.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 547–706.

[3] Cap. 9 Extra Lib. V. Tit. xxxviii.

the breeches—*quod lumbare sive bragarium portant*—and can safely do so, she should be told to reveal it to her husband, and then, if he sees fit not to compensate those who suffer, she is released from responsibility. If, as is more frequently the case, there would be danger to all parties from such a revelation, and the putative son is a timid and God-fearing man, he can be told of his birth under an oath of secrecy, and be persuaded to enter a convent or depart for a distant land, and when thus removed from the inheritance the cost of his bringing up can probably be dropped. If the son is not likely to acquiesce in this, the matter should be kept secret, and the mother, if she has property in her own right, must compensate the defrauded heirs as far as possible, or, if there are no heirs, she can give the amount in "alms" under the advice of the bishop. If she has nothing, she must make the firm resolve to compensate the parties whenever she is able, and let her contrition meanwhile suffice. The confessor is, of course, cautioned to perform his part in the delicate transaction with the utmost tact and discretion, and, above all, not to break the seal of the confessional.[1] As this was a case which might any day call for decision by the confessor it remained a constant subject of discussion among the doctors. Duns Scotus follows in the same line of thought as Cardinal Henry, and his disciples virtually agree with him.[2] Bartolommeo de Chaimis contents himself with directing that the wife shall compensate her husband, or his heirs if he is dead, for the nurture and education of the child —though he omits to point out how this is to be done without exposure.[3] Gabriel Beil treats the question at much length, without reaching any definite conclusion, except that the danger of murder and discord in case of open confession must in most cases overbalance the obligation of restitution.[4] Pacifico da Novara insists that the woman is not obliged to run any risk of life or reputation, while Godschalck Rosemond holds that she must make good the damages at any expense to herself.[5] The post-Tridentine theologians keep

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[1] Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remiss. § 61.

[2] Jo. Scoti in IV. Sentt. Dist. xv. Q. ii. ad Arg. 7.—Fr. de Maironis in IV. Sentt. Dist. XVI. Q. ii.—Astesani Summæ Lib. v. Tit. xxxix. Q. 5.

[3] Bart. de Chaimis Interrogat. fol. 63*a*.

[4] Gab. Biel in IV. Sentt. Dist. xv. Q. ii. Art. 2, Concl. 2.

[5] Somma Pacifica cap. 10 *De Restitutione*.—Gods. Rosemundi Confessionale cap. v. P. ii. § *De Spuriis*.

up the discussion. Manuel Sa sets forth the opinions of various authorities; some, he says, hold that an adulterer, believing a child to be his, is bound to refund the expenses of its nurture, and, if a girl, to furnish her dower, while others deny that it is a positive obligation; some declare that a woman is required to admit that her child is adulterine, even at the risk of life, others that she is not even bound to risk her reputation, while others again make it depend on whether the inheritance is or is not more important than her reputation; a son, it is generally admitted, is not bound to believe such a statement, even under oath, from his mother, and abandon his inheritance.[1] Tamburini applauds a suggestion of the older doctors, that the mother assemble her children and inform them that one of them is illegitimate, and if exposed will forfeit his share in the estate, when each one, fearful that he may be the victim, will willingly agree that the matter shall remain secret.[2] Zuccheri argues that, as there can scarce be a case in which admission will not imperil life or reputation, and as a son is not obliged to believe his mother in such matters, she can be excused from open confession.[3] Corella presents the arguments of the doctors, admits that the woman is not obliged to reveal her infamy, and reaches no decision save the convenient one that she should endeavor to make good the expenses out of her private means and bring up the illegitimate child to enter the Church.[4] Liguori teaches virtually the same and shows the modern relaxation from ancient rigor by adding that a woman is not required to betray herself at the risk of domestic strife and her husband's hatred.[5] A more intricate case is when there is doubt whether a child is illegitimate or not, and here the doctors are naturally at

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[1] Em. Sa Aphorismi Confessar. s. v. *Adulterium* n. 2, 3.

[2] Tamburini Expl. Decalogi Lib. VII. cap. iii. § 4, n. 12.

[3] Zuccherii Decisiones Patavinæ, Martii 1708, n. 50–53.

[4] Corella Praxis Confessionalis, P. I. Tract. vi. cap. 3, n. 18–22.

[5] S. Alph. de Ligorio Theol. Moral. Lib. III. n. 651–2. A case of the kind occurred in Paris about the year 1700. A woman on the death-bed confessed that one of her three children was adulterine. The confessor insisted that she should divulge it to her husband, and finally agreed to do it himself after her death. On receiving the information the widower naturally asked which of the three was illegitimate, but the good priest in his zeal had forgotten to enquire, and the father was obliged to treat them all alike, while feeling uncertain as to each.—Lenglet Du Fresnoy, Traité du Secret de la Confession, p. 108.

odds whether the adulterer, in view of the doubt, ought to contribute to its support.[1]

This will serve as an example of the infinite questions crowding into the confessional as to the practical application of the principle of restitution. With regard to its enforcement, the difficulty is universally acknowledged and has been variously met. In the first place, opinions have differed as to the power of the confessor to remit the obligation of restitution. Cardinal Henry of Susa holds that it cannot be remitted unless the absolute poverty of the penitent renders it impossible, in which case contrition must suffice.[2] John of Freiburg says that the confessor can dispense with it, and he treats of a somewhat curious complication apt to arise in such cases: a priest utters the customary public excommunication of whosoever has stolen or found a missing article; the thief confesses and is absolved without making restitution; the loser grows impatient and asks for a second publication of the excommunication; what is the priest to do? The answer is that he must delude the loser with some "pious" fraud, failing which he must repeat the excommunication with ambiguous and equivocal formulas, so that he may seem to utter the ban while in reality he does not[3]—the morality of which device we need not pause to examine. Bartolommeo de Chaimis says that it is a mortal sin for a priest to grant absolution without enforcing restitution, while Angiolo da Chivasso and Prierias do not require it as indispensable in advance of absolution, but merely warn the penitent that without he will not enjoy the benefit of the sacrament.[4] Some doctors hold the confessor pecuniarily responsible for any damages arising from his granting absolution without insisting on reparation,[5] but Father Gury informs us that this is only the case when he unjustly denies that there is obligation, and not when it arises from ignorance.[6] The case, however, is purely hypothetical in view of the secrecy of the confessional, but, even if it were not, modern laxity on the subject of restitution renders it unimportant, for, with the exception of a few

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[1] Voit Theol. Moral. I. n. 65.

[2] Hostiens. Aureæ Summæ Lib. v De Remiss. § 1.

[3] Jo. Friburg. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 54, 126.

[4] Bart. de Chaimis Interrogat. fol. 92*a*.—Summa Angelica s. v. *Confessio* VI. § 1.—Summa Sylvestrina s. v. *Confessor* III. § 15.

[5] Em. Sa Aphorismi Confessar. s. v. *Confessor* n. 31.

[6] Gury Casus Conscient. I. 16.

rigorists, the authorities advise that the monition to make restitution be omitted if the confessor thinks it not likely to be obeyed, because the penitent in disobeying will fall into mortal sin, and his spiritual damage is more to be dreaded than the pecuniary loss to the other party.[1]

It appears, indeed, to be the universal experience that when the performance is not insisted upon before absolution all promises and assertions of intention to make restitution are vain, for the penitent, feeling himself relieved of his sins, takes no further thought as to the reparation enjoined on him—as the Tridentine Catechism says, nothing but absolute coercion will be effective.[2] Absolution conditioned on restitution is out of the question, for, as we have seen, it cannot be granted dependent on future events, and it is even a sin to attempt it.[3] The only way to insure restitution therefore is to defer absolution until the restitution is made; this was ordered by S. Carlo Borromeo and other theologians, and Liguori says that it was his own practice,[4] but other expedients have been attempted. In 1389 the statutes of John, Bishop of Nantes, order that no priest shall grant absolution until the penitent furnishes good security to make restitution and satisfaction to all persons and places injured, within a fixed time.[5] This shows how little respect was paid to the seal of confession at the period, and was not a usual expedient, though St. Antonino and Bartolommeo de Chaimis prescribe that, in the case of notorious usurers on the death-bed, absolution shall not be granted unless the

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[1] S. Alph. de Ligorio Praxis Confessarii cap. I. § 2; Theol. Moral. Lib. VI. n. 614.

As early as the seventeenth century we see the dawn of this relaxed teaching in the statement of Marchant (Trib. Animar. Tom. I. Tract. V. Tit. 5, Q. 7 Concl. 3) that if there is a probable opinion against the necessity of restitution, and a more probable one requiring it, and the confessor foresees that the penitent will not obey, he should act on the less probable opinion.

[2] S. Antonini Summæ P. III. Tit. xiv. cap. 19, § 19.—Catech. Tridentin. De Pœnit. cap. xiii.—S. Alph. de Ligorio Theol. Moral. Lib. III. n. 456, 682.—Mach, Tesoro del Sacerdote, II. 257.

[3] Gobat Alphab. Confessar. n. 267.

[4] S. Caroli Borrom. Instruct. Confessarior.—Dom. Soto de Justitia et Jure Lib. IV. Q. vii. Art. 4.—Rebelli de Obligationibus Justitiæ P. II. Lib. xvii. *De Officio Confessarii.*—Pet. de Aragon de Justicia et Jure Q. LXII. Artt. ii. vii.—Pontas Dict. de Cas de Conscience s. v. *Absolution* cas 27, 28.—S. Alph. de Ligorio Theol. Moral. Lib. III. n. 456.

[5] Stat. Jo. Episc. Nannetens. ann. 1389 cap. 14 (Martene Thesaur. IV. 986).

moribund or his heirs offer competent security to refund all ill-gotten gains.[1] Yet, from the living, St. Antonino says elsewhere that no oath to make restitution is to be exacted, and Baptista Tornamala insists that neither oath nor security is to be required, unless, indeed, there is reason to doubt the penitent's assurances in consequence of his having repeatedly broken such promises.[2] The Tridentine Catechism directs priests to be satisfied with a promise, although it expresses so little faith in the performance.[3] Some moralists since then have held that not even a promise is to be exacted,[4] but Father de Charmes takes the practical view that, if the amount at stake be large, absolution should be postponed till its payment, while if small it can be granted on the strength of a promise.[5] Padre Mach agrees with Liguori that trusting to promises is unsafe, as experience shows that their performance is rare,[6] and we are also told that little dependence is to be placed on the assertions of penitents as to their inability to make restitution.[7] Such admissions would seem to warrant the assumption that the theologians have little faith in the grace which is asserted to be bestowed in the sacrament.

In spite of the requirements which carry the responsibility for injuries and unjust gains to such extremes as we have seen, the casuists have little trouble in arguing it away. Benedict XIV. tells us that if a stolen article perishes in the thief's hands and would also have perished in the owner's, whose house was subsequently

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[1] S. Antonini Confessionale fol. 70.—Bart. de Chaimis Interrogat. fol. 108–9.

Diana (Summa s. v. *Restitui* n. 32) insists that the moribund, if able, must make restitution himself and not leave the duty to his heirs, for otherwise the restitution is conditional on his death, and moreover the heirs do not often perform it

[2] S. Antonini Summæ P. III. Tit. xiv. cap. 19 § 19.—Summa Rosella s. v. *Restitutio* XVI.

[3] Catech. Trident. De Pœnit. cap. xiii.

[4] Reginald. Praxis Fori Pœnit. Lib. I. n. 20.

[5] Th. ex Charmes Theol. Univers. Diss. V. cap. vi. Q. 5, § 6.

[6] Mach, Tesoro del Sacerdote, III. 257.

[7] Istruzione per i novelli Confessori, P. I. n. 254 (Roma, 1726).

The degree of inconvenience to which the penitent is bound to subject himself in order to pay his debts or make restitution has, of course, been a subject of debate. Salvatori (Istruz. per i novelli Confessori P. II. § ii.) prescribed that he should restrict himself to the bare necessaries of life, but this raised an outcry as an excess of rigor, so he modified it to a decent maintenance for himself and family according to their station in life.

burnt, the thief can be absolved without making restitution.[1] A son can with a safe conscience steal from his father money with which to gamble, provided the sum is moderate and such as beseems the condition of the family.[2] A man who wins at cards through seeing a negligent adversary's hand, or by knowing the backs of the cards, if they are not specially marked, is not to be held to restitution, for this is not fraud, but rather industry, approved by the common custom of gamesters, and does not vitiate the contract of the game.[3] A man can

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[1] Bened. PP. XIV. Casus Conscientiæ, Nov. 1741, cas. 2.

[2] Ibid. Oct. 1744, cas. 1.

[3] Ibid. Nov. 1739, cas. 1. These cases illustrate the modern laxity of morals. The Apostolic canons refuse communion to all who will not abstain from games of chance (can. 41, 42), and this was carried through all the collections up to Gratian (cap. 1 Dist. XXXV.). In the middle ages, as a rule, all gambling gains were regarded as illicit and not to be retained. St. Bonaventura drew the distinction that if the challenge to play came from the winner, they must be restored to the loser; if the loser had been the challenger they must be given in alms (In IV. Sentt. Dist. XV. P. ii. Art. 2, Q. 2). In 1286 the council of Nîmes (Harduin. VII. 912) insists on such gains being returned as a condition of absolution. Aquinas (Summæ Sec. Sec. Q. XXXII. Art. vii. ad 2) is somewhat more lax and regards it rather as a matter of custom and secular law. Astesanus (Summæ Lib. v. Tit. xxxi. Art. 4) devotes a whole article to the question and concludes that it is the common and safer opinion that all such gains should be restored in the confessional. Progressive laxity is shown in Savonarola's opinion (Confessionale, fol. 59) that fair winnings do not require to be restored, but he urges that they ought to be given in alms.

The insane prevalence of gambling in the middle ages is strikingly illustrated by the special laws issued on the subject, in 1276, by Alfonso the Wise of Castile. He declares gambling debts legal and only strives to prevent fraud and other excesses.—Ordenamiento de las Tafurerías, ley iv.

Clerics were strictly prohibited from gambling by the canons of innumerable councils down to that of Trent (Sess. XXII. De Reform. cap. 1), but to no effect, for in the seventeenth century Laymann says (Theol. Moral. Lib. III. Tract. iv. cap. 22) that custom has modified this severity and that gaming is permissible to ecclesiastics, provided it is not so public as to cause scandal. Even religious, sent by their superiors to the universities to study, can risk a moderate portion of their allowance in games of chance, but their winnings belong to the monastery. Of course, restitution is only required for fraudulent gains. Diana is perhaps even somewhat more relaxed (Summa s. v. *Ludus* n. 2, 3, 7). A priest can gamble with his patrimony or revenues or the money received from masses, offices for the dead, etc. It is a mortal sin to introduce cards or dice into convents of strict observance, but in the ordinary houses it is lawful to play with the hope of moderate gains, provided the monk or friar risks only money which he can lawfully control.

prevent the perpetration of a theft and consequent damage to his neighbor, but accepts a bribe and remains quiet; he can retain the money, for, though he sinned by his silence, he earned the bribe.[1] Father Gury is equally skilful in explaining away the necessity of restitution. Damage committed by an habitual drunkard while drunk does not require it, for there was no intention, and therefore no *culpa theologica*; a man desiring to injure a neighbor and shooting at his ass, misses it and kills the cow of another; he is not bound to restitution, for he did not intend to shoot the cow.[2] Yet in this maze of casuistry the doctors do not always follow the same path, for Benedict XIV. decides an almost similar case the other way: a man desiring to harm the house of an enemy sets fire by mistake to the house of a friend, and is required to make restitution.[3]

In spite of these aberrations which confuse all ideas of right and wrong, there can be no question that the teachings of the Church on the subject of restitution, however imperfectly enforced, were of service in stimulating the sense of moral responsibility and elevating the standard of duty between man and man. In many ways they supplemented the imperfections of the secular law and provided, in theory at least, protection for the weak and oppressed. Thus a man seducing a virgin was held to no responsibility in the civil forum, but in that of penitence he was required, if he had used deceit, to marry her or to find her a husband and furnish her dowry.[4] Yet when the casuists came with their discussions and distinctions the inevitable result was to subordinate morality to the money question. This was strengthened by the unfortunate attitude assumed by the Church, for one cannot help recognizing that alongside of a sincere desire to reduce Christian ethics to practice, which led the theologians to such excess in defining the reparation prerequisite to absolution, there were other motives less unselfish. Not only was the influence of the confessional thereby greatly extended and the control of the

[1] Bened. PP. XIV. Casus Conscient. Dec. 1736, cas. 3.

[2] Gury Casus Conscient. I. 4, 178.

[3] Bened. PP. XIV. Casus Conscient. Julii, 1744, cas. 2.—Gobat shows (Alphab. Confessar. n. 560–3) how easily arguments can be found for absolving nobles who do not pay their debts. At the same time there was something gained in bringing any pressure to bear on the conscience in such matters after the fashion of excommunicating negligent debtors had become obsolete.

[4] Astesani Summæ Lib. II. Tit. xlvi. Art. 3.

priest over the lives and fortunes of his subjects rendered more absolute, but there was a direct pecuniary profit secured to the Church. Partly this was irregular and undesigned, and partly regular. The former arose from the practice necessarily introduced of making the confessor the channel of restitution, in order that it might be accomplished secretly and avert scandal from the penitent. In the privacy surrounding the affair, which the penitent dared not disturb, the temptation of appropriation was irresistible to a confessor weak in principle, and there can be no doubt that to this many succumbed. The danger manifested itself early, for, in 1284, the council of Nîmes found itself obliged to prohibit such malversation under pain of excommunication, suspension, restitution and a fine of equal amount to be given to the poor[1]—the severity of the punishment threatened being an index of the difficulty of proving the offence. Geiler von Keysersberg warns the penitent to be careful as to the selection of his agent, for if the restitution does not reach its destination he is not relieved from the sin: still, he admits, the confessor is the natural channel, and if he is of good repute the penitent is probably released before God.[2] S. Carlo Borromeo endeavored to check such frauds by forbidding the confessor to act except by special request of the penitent, and in all cases he was to take a receipt from the payee and give it to the payer.[3] Even this was but a slender protection, for the cases would be few in which a penitent would dare complain if the receipt were not forthcoming. Diana re-echoes the warning of Geiler von Keysersberg, that the penitent must use great diligence to insure the money reaching its destination, for the common opinion is that if it does not he is not released. Personally, Diana thought the opposite opinion probable, but Liguori says that although he once agreed with him in this, his mature conviction accords with the common opinion that the penitent is still bound.[4]

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[1] Synod. Nemausens. ann. 1284 (Harduin. VII. 938).

[2] Jo. Keysersperg. Navicula Pœnitentiæ (Aug. Vindel. 1511, fol. xlviii. col. 1).

[3] S. Caroli Borrom. Instruct. Confessar. p. 69.—St. Francis Xavier (Avvisi ai Confessori) wisely advises the confessor to have nothing to do with handling the money if he would preserve his confessional from the reputation of being a bank of exactions and usuries.

[4] Summa Diana s. v. *Restitui* n. 31.—S. Alph. de Ligorio Theol. Moral. Lib. III. n. 705.

A case before the Inquisition of Toledo in 1594 is illustrative. Juan de

The legitimate profits accruing to the Church from the enforcement of restitution were on a far larger scale than these irregular embezzlements. In a seventh century Penitential there is an obscure passage of which the meaning seems to be that the penitent to redeem the sin of unjust acquisition can pay one-half the value, to be spent in alms, an equal sum to the Church, and another like amount for redeeming captives.[1] Such a principle as this seemed to render the Church in some sort an accomplice, and there were not wanting those who felt scruples as to receiving "alms" from such questionable sources. Alexander Hales assumes that money acquired by usury or rapine cannot be given or received in alms, for it does not belong to the holder; if the sinner can make full restitution he may give from what is over; it is otherwise with the gains of prostitution or acting or gambling, for they belong to the possessor and can legitimately be given and received. Yet already there were shrewd casuists who argued that a robber or usurer could be released from restitution by almsgiving in the name of the owner; it might be well to ask his permission, but his refusal was of no moment. Other doctors denied this reasoning, and Hales thinks their opinion the more probable.[2] Now for a long period it had been a matter of course that "alms" to the poor meant contributions to the Church, which constructively was always poor and represented the poor. About the year 1000 Regino tells us that the penitent could determine the direction which his alms should take, whether for the redemption of captives, or to the treasury of the Church, or to the servants of God, or to the poor,[3] and the ghostly counsellor could confidently urge that priests as beneficiaries were much more desirable than beggars, because their prayers for their benefactors were vastly more efficient with God. Thus monks and priests came to be

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Cepeda, a penniless blind man, to support himself and the boy who led him, pretended to be a priest and heard confessions. On trial he admitted that his motive was to obtain the "alms" or fees given by penitents, and also to convert to his own use the restitutions which he would order. Under the papal laws he was liable to relaxation, but the Inquisition contented itself with giving him two hundred lashes.—MSS. Königl. Biblioth. Halle, Yc. 20, T. I.

[1] Collect Antiq. Canonum Pœnitentialium (Martene Thesaur. IV. 56).

[2] Alex. de Ales Summæ P. IV, Q. XXXIII. Membr. ii. Artt. 2–5; Q. XXXV. Membr. ii.

[3] Reginon. de Eccles. Discipl. Lib. II. cap. 438.

generally recognized as the "pauperes" of the formulas and as the proper recipients of all sums directed to be spent in charity, especially after the rise of the Mendicant Orders.[1] Such being the case, the Church exercised control and used for its own purposes whatever moneys conscience-stricken penitents might feel impelled to disgorge, provided the real owners were not at hand to claim them, and the sums thus accumulating were not small. In 1249 the Archbishop of Reims authorized St. Louis to convert to pious uses at his discretion, presumably for his crusade, all restitutions within the diocese of Reims when the owners could not be found.[2] Somewhat bolder, a few years later, was Innocent IV., when, desiring to raise funds for his war with Ezzelin da Romano, he proclaimed that those who held illicit acquisitions should not be held to restitution, if, after public notice in the diocese or parish, claimants did not come forward, and they would contribute the whole or what they could, of such ill-gotten gains, to the prosecution of the affairs of the faith.[3] The next year, 1255, Walter, Bishop of Durham, expresses the same control somewhat less crudely; if the owner or his heirs are dead the evil acquisitions are to be paid to the Ordinary for the use of the poor.[4] It is not surprising, therefore, that priests should sometimes undertake to order the building of churches or monasteries, or pious legacies in lieu of restitutions due by their penitents, for such a practice is forbidden by the council of Mainz in 1281,[5] and when the *Quæstuarii*, or sellers of indulgences, undertook to transact such

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[1] How easy it was to assume that the clergy were the poor to whom alms should be assigned is seen in a "Mass for Almsgivers" of probably the twelfth century—"Hanc igitur oblationem, Domine, famulorum famularumque qui de eleemosinis suis memoraverunt venerabilem locum istum, quam tibi offerimus ob justis eleemosinis suis quod in pauperes tuos operantur, placatus suscipias deprecamur."—Goldast. et Senckenb. Rer. Alamannar. Scriptt II. 157.

Muratori thinks that originally the real poor were called in to share, but that subsequently the churches and the priests absorbed the whole.—Antiq. Ital. Diss. LXVIII. (T. XIV. pp. 69–70).

In a seventeenth century manual for confessors they are clearly instructed on this point—"Quinam intelliguntur nomine pauperum? Non solum mendicantes sed etiam pauperes verecundi . . . monasteria, hospitalia, ecclesiæ, uno verbo, omnia loca pia."—Berteau Director Confessarior. p. 362.

[2] Gousset, Actes etc. II. 394.

[3] Innoc. PP. IV. Bull. *Ut nihil nobis*, 1254 (Bullar. I. 103).

[4] Waltheri Dunelmens. Constitt. ann. 1255 (Harduin. VII. 492).

[5] C. Mogunt. ann. 1281, cap. 8 (Hartzheim III. 664).

business on their own account and released holders of ill-acquired property from restitution for a portion of the amount it was regarded as an abuse and was forbidden by the council of Vienne in 1312.[1] This did not prevent its being universally accepted by the canonists that, when the owner cannot be found, restitution is to be made in almsgiving for the benefit of his soul, and this benefit of course was greatest when the alms went to the Church.[2] Thus, in 1295, Boniface VIII. authorized the Dominicans engaged in rebuilding the church of Santa Maria sopra Minerva to receive two thousand *livres tournois* from property acquired by usury, rapine or other evil ways; the sinner was relieved in so far as he paid the whole or a part of his unlawful gains, and he was not responsible if the friars fraudulently retained it from the owner.[3] Another grant, in 1296, to the Dominicans of Viterbo, of a thousand pounds of *paparini*, to be collected from dishonest gains, specifies that those who paid were relieved from restitution to the owners.[4] Grants of this kind were frequent,[5] and finally became a matter of regular traffic, for in the subsequent Taxes of the Chancery the price of a licence to receive a thousand florins from this source was rated at only fifty *gros tournois*.[6] The local churches

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[1] Cap. 2 § 1 Clement. Lib. v. Tit. ix.—Summa Pisanella s. v. *Quæstuarii* n. 3.

[2] S. Th. Aquinat. Summæ Sec. Sec. Q. LXII. Art. v. ad 3.—Synod. Nemausens. ann. 1284 (Harduin. VII. 912).—Astesani Summæ Lib. v. Tit. xxix. Art. 2, Q. 4; Tit. xxxi. Q. 2.—P. de Aquila in IV. Sentt. Dist. xv. Q. ii.—Summa Diana s. v. *Restitui* n. 18.

Duns Scotus seems to be virtually alone (In IV. Sentt. Dist. xv. Q. ii.) in rejecting the ordinary advice that the money be given to the confessor for charitable uses, and in counselling the penitent to distribute it himself.

[3] Ripoll Bullar. Ord. Prædic. II. 39.—In 1298 we find Boniface granting to Margaret, dowager of Naples (the widow of Charles of Anjou), the privilege of spending in pious uses, under the advice of her confessor, all the moneys which she had unlawfully received, of which the owners could not be found.—Faucon, Registres de Boniface VIII. n. 2860.

[4] Ripoll II. 51.

[5] Thus Benedict XI., in 1303, grants 1000 gold florins of restitutions to the Dominicans of S. Severino, and, in 1304, the same amounts to those of Pavia, Savigliano and Toulouse, and 100 pounds of Venetian *grossi* to those of Ragusa. —Ripoll, II. 82, 86, 92, 96, 98.

[6] Taxæ Cancellariæ Apostolicæ Tit. XXVI. (Ed. Franequeræ, 1651, p. 37; Ed. Sylvæ Ducis 1706, p. 21). This however was only one of a number of fees to be paid to sundry officials, and there was probably in addition a settlement to be made with the camera.

for a while resisted the control by the Holy See of this source of revenue. In 1287 a quarrel arose at Liége, where the mendicant friars asserted that they held letters making over the restitutions to them; the local prelates recalcitrated and in full synod declared that the moneys should be spent on the fabric of the cathedral; the priests were ordered not to recognize the claims of the friars until they should produce the alleged letters, and meanwhile the latter were threatened with excommunication for their fraudulent pretensions.[1] There was naturally moreover a strong tendency for confessors to retain for themselves the benefits of the sums confided to them. In the case of the Mendicants this was recognized by the papal Penitentiary issuing letters to the superiors of convents authorizing them to convert to the fabric of their houses the illicit gains of persons confessing to them, up to a certain amount, and the scrivener's fee for such letters was six *gros tournois*, according to the tax-tables of Benedict XII. in 1338.[2] As for other confessors, towards the close of the fifteenth century the *Summa Pacifica* intimates that if the priest is poor he can bestow on himself the sums placed in his hands for distribution, in place of giving them to others,[3] while in the beginning of the seventeenth century this seems to have become recognized, for Bishop Zerola tells us that if the penitent hands money to his confessor to make restitution, and if the owner cannot be found, the confessor can keep it, for he is classed among the poor, and restitutions to uncertain persons are properly given to the

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[1] Jo. Episc. Leodiens. Statuta Synodal. ann. 1287, cap. 4 (Hartzheim III. 686).

[2] P. Denifle, Die älteste Taxrolle der apostol. Pönitentiarie (Archiv für Litteratur-und Kirchengeschichte, IV. 228).

As there is no formula for such letters in the "Formulary of the Papal Penitentiary in the Thirteenth Century" (Philada., 1892), compiled towards the end of the thirteenth century, the custom probably grew up under Clement V. or John XXII.

In the papal court itself, the oath administered to the minor penitentiaries in 1349 contains a clause requiring them in all cases where the owners are unknown to refer the matter to the Cardinal Major Penitentiary, who doubtless compounded with the penitent, as we shall presently see.—Bullarium Vaticanum, I. 338.

[3] Somma Pacifica cap. 1. "Et quando la persona che debbe fare tal distribuzione fosse molto bisognoso credo che si come puo dare ad altri, così possa tenir per se."

poor.[1] Some doctors even argued that when the owner is known the restitution can be made in alms for the benefit of his soul, for thus the spiritual advantage outweighs the temporal loss, but Liguori disapproves of this;[2] still, when the restitution cannot be made without entailing disgrace, the confessor can divert the money from the injured party to charitable purposes.[3]

Thus the business of enforcing restitutions was a profitable one, for in a large proportion of cases the ill-gotten gains consisted of the profits of usurers, fraudulent shop-keepers and such folk, whose acquisitions came in petty sums from a wide circle, the individuals of which could not be readily traced, so that it was much easier to hand over in a lump to the confessor what sufficed to still the conscience and secure absolution. That the aggregate was considerable, and that it was regarded as an assured and tolerably regular source of income, is apparent from an incident in the raids of the inquisitor François Borel against the Waldenses of Dauphiné. His captives were so numerous that their incarceration and support became a serious financial question, which greatly puzzled Gregory XI., one of whose expedients was to order, in 1375, the archbishops of the infected regions to contribute from the ill-acquired gains and uncertain legacies four thousand florins to build prisons and eight hundred florins a year for five years for the maintenance of the prisoners and support of the Inquisition.[4]

In the struggle for the control of this source of revenue the Holy See acquired a decided advantage by taking the matter wholly out of the confessional, dealing directly with the sinner, and offering him attractive terms of composition, under which, by the payment of a trifling portion of the illicit gains, he was assured that he could retain the rest with a quiet conscience, provided that he had ineffectually used due diligence in endeavoring to find those whom he had robbed or defrauded, and that he had not wrongfully acquired property in expectation of thus compounding for it. We have seen that speculation of this kind was condemned by the council of

[1] Zerola Praxis Sacr. Pœnit. cap. xxv. Q. 37.—"Quia ipse inter pauperes numeratur et restitutio facienda incertis personis solet vel debet fieri pauperibus."

[2] S. Alph. de Ligorio Theol. Moral. Lib. III. n. 705.

[3] Bened. PP. XIV. Casus Conscient. Mart. 1738, cas. 1.

[4] Waddingi Annal. Minorum, ann. 1375 n. xxii.

Vienne, in 1312, when practised by the *Quæstuarii* for their own profit, but there was no objection made to it when carried on by the curia on a large scale. The Taxes of the Papal Chancery towards the close of the fifteenth century have two provisions for this—one that a layman can compound for twenty-four *gros tournois*, instead of for a fourth part as formerly, the other that letters of remission in such cases shall be granted to a poor man for twenty *gros*, and to a rich man for fifty.[1] To facilitate the collection of revenue from this source it was farmed out to commissioners, and the abuses of the system became such that when, in 1547, the papalist section of the council of Trent withdrew to Bologna, it framed a reformatory decree, which never was enforced, declaring that many evils had arisen from the faculties granted to commissioners to compound for illicit gains; such compositions were granted for a trifle, diligence was not used to find the injured parties, who were thus defrauded, opportunities were offered for wrong-doing, and souls were ensnared, for sins are not remitted unless restitution is really made. For these reasons it was ordered that in future no such faculties should be granted, while existing ones should be so limited that when the injured were known the payment should be made to them, when unknown the full amount should be paid to pious uses.[2]

This nugatory protest was primarily directed against the system in its perfected shape as organized in the Spanish dominions in the *Santa Cruzada*, or commission for the sale of so-called crusading indulgences, which has been maintained from the middle ages to the present time. As described in an official text-book, issued in 1610, the Commissioner General of the *Santa Cruzada* issued a long list of the sources of unlawful gains, such as the profits of usury and gambling, of watered wine and short weights and measures, bribery

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[1] Libellus Taxarum super quibusdam in Cancellaria apostolica impetrandis fol. 7*a* (White Hist. Library, Cornell University, A. 6124).

None of these provisions respecting illicit gains are in the fourteenth century *Taxæ* printed by Tangl, *Das Taxwesen der päbstlichen Kanzlei* (Mittheilungen des Instituts für österreichische Geschichtsforschung, 1892).

When in the Anglican schism Parliament, in 1533, transferred the Taxes of the Chancery to the Archbishop of Canterbury, it substantially adopted the Roman tariff of prices, but excepted compositions, which, as being necessarily arbitrary, were left to the discretion of the archbishop.—XXV. Henr. VIII. ch. 21 § 12 (Statutes at Large, Ed. 1770, Vol. II. p. 196).

[2] Raynald. Annal. ann. 1547, n. 68.

received by judges, extortionate charges by officials, things lost or left on deposit, presents made by men to their mistresses etc.[1] This served as a guide for sinners, who had no reason to complain of the terms offered to them, for the price charged for permission to retain these illicit profits was temptingly moderate—only two reales on sums under 5000 maravedises (about 150 reales or 14 ducats), and at this rate up to 100,000 maravedises, while larger amounts were subject to special bargaining with the Commissioner General, who had full power from the Holy See to settle all cases. In the Indies the terms were higher—five per cent. of the amount compounded for—while no *bula de composicion* was issued at a less price than twelve reales, and, when the sum in question exceeded 800 ducats, a special composition was designated by the Commissioner General.[2] In the *Bula*, as published annually by that official, he set forth that as no one can attain heaven who has not, according to St. Augustin, made restitution of all ill-acquired gains, and as this frequently cannot be done without loss of honor, and it is often troublesome to ascertain the amount and the person to whom restitution is due, it shows the paternal love of the pope for his children that he has thus opened the way, so that now, when the Church is so harassed with the attacks of infidels and heretics, and the Catholic king is its special champion, all doubts can be quieted by paying in aid of his expeditions against these enemies of the Church two reales in composition for 5000 maravedises, and the faithful are invited to compare the smallness of the sum required with the greatness of the release, the object of the pope being to place it within the reach of every one, so that all may join in the great work and not remain in a state of condemnation.[3] In process of time the percentage has been

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[1] Alonso Perez de Lara, Compendio de las Tres Gracias de la Santa Cruzada, Subsidio y Escusada, p. 18. This work was first issued in 1610. My edition is of Lyons, 1757, showing that it long remained in use as an authoritative manual.

[2] Paolo Tiepolo, Relazioni Venete, Serie I. Tom. V. p. 23.—Perez de Lara, p. 86.

[3] Rodriguez, Explicacion de la Bulla de la Santa Cruzada, fol. 165–7 (Salamanca, 1597).

The first edition of this semi-official work was issued in 1589. It is in the vernacular, and therefore was intended for the people as well as the clergy. For the benefit of the Sicilian subjects of Spain it was translated into Italian, Palermo, 1621.

raised, while the minimum has been reduced, so that it is brought within reach of the humblest sinners. At present, in modern currency, the *bula* costs 1 peseta and 15 céntimos, equivalent to about 23 cents of American money, which serves as composition for 14 pesetas and 45 céntimos, or about $2.85, as will be seen by the facsimile which I give of those issued in 1889. For larger sums additional bulls are bought, but no one can take more than fifty in any one year, aggregating a composition for 735 pesetas and 29 céntimos, and for greater amounts he must wait till the next year, or apply to the Commissioner General for a special composition. Thus the charge, which in the sixteenth century was only 1⅓ per cent., has been raised to 8 per cent., while it is understood that the special transactions for larger sums are on a basis of 10 per cent.[1] The *bula* has a blank left for the name of the sinner, but he is advised that it is injudicious to fill this in, as it would be proclaiming himself a thief; he must take the bull, otherwise he derives no benefit from the payment, but, for the sake of his reputation, his safest course is to destroy it immediately.[2] Having done this, he remains, in the words of the *bula*, free and discharged from the obligation of restitution up to the amount for which he has paid. In all this there is no allusion to contrition or confession—it is a simple matter of trade. As wars with infidels and heretics are no longer in fashion, the proceeds are now applied to the support of the Spanish churches, except the portion which the pope reserves for the Holy See.[3]

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[1] Mig. Sanchez, Prontuario de la Teología Moral, Trat. XIII. Punto 5.

[2] Mig. Sanchez, Expositio Bullæ Sanctæ Cruciatæ, pp. 377–80 (Matriti, 1875).

As this work bears the official approbation of the Cardinal Archbishop of Valladolid, Commissioner General of the Cruzada, its statements may be accepted as authentic.

[3] Sanchez, p. 424.—Salces, Explicación de la Bula de la Santa Cruzada, p. 6 (Madrid, 1881).

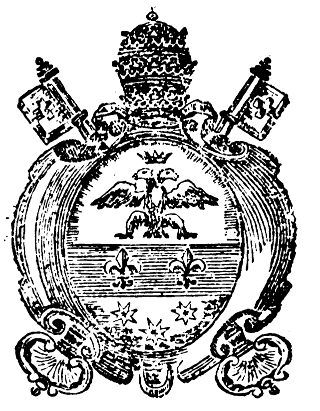
The clause respecting composition in the Cruzada bull *Dum infidelium*, issued by Pius IX. in 1877, is as follows:

"Eidem quoque executori potestatem facimus, ut prọ foro conscientiæ tantum, super injuste ablatis vel acquisitis compositionem competenter decernere possit, in prædectos pios fines erogandam, dummodo scilicet domini quibus restitutio esset facienda, post debitam diligentiam pro iisdem inveniendis adhibitam reperiri non possint, et præstito a debitoribus juramento de hac diligentia per eos facta, et dummodo iidem debitores in confidentiam et sub spe

Composición. **MDCCCLXXXIX.** Una peseta quince céntimos



SUMARIO DE LA BULA DE LA SANTA CRUZADA, QUE EN FAVOR DE LOS FIELES residentes en los Reinos de España é islas a ellos adyacentes, se dignó conceder Nuestro Santísimo Padre Pío IX, de feliz memoria, dada en Roma á cuatro de Diciembre de mil ochocientos setenta y siete, para que puedan lograr composición sobre cosas y cantidades que sean obligados á restituir, sujetas á la disposición de Su Santidad, ayudando, con las sumas que se recauden, á los gastos del Culto Divino y socorro de las Iglesias de España, para el año de mil ochocientos ochenta y nueve.

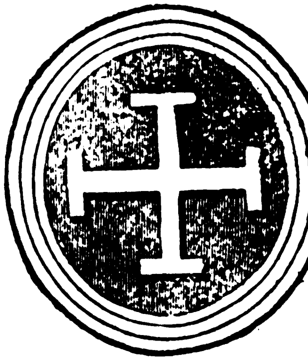


Queriendo el Vicario de Cristo proveer á la quietud de las conciencias de los fieles, afligidas con la pesada carga que las oprime, de restituir bienes y cosas ajenas, y que de esta misma disposición resulte beneficio á la Religión Católica, invirtiendo las sumas que se recauden en el sostenimiento del Culto Divino y socorro de las Iglesias, se dignó Su Santidad conceder por la expresada Bula, á NOS DON MIGUEL, por la Misericordia divina del título de los Santos Mártires Quirico y Julita de la Santa Romana Iglesia Presbítero Cardenal Payá, Arzobispo de Toledo, Primado de las Españas, Patriarca de las Indias, Capellán Mayor de S. M., Vicario General de los Ejércitos y Armada, Canciller Mayor de Castilla, Caballero Gran Cruz de la Real Orden de Carlos III y de la Americana de Isabel la Católica, Senador del Reino, *Comisario General de la Santa Cruzada* en todos los dominios de S. M., etc., etc., que podamos componer á los tales deudores de bienes y cosas ajenas y libertarles de su restitución en los casos y forma siguiente:

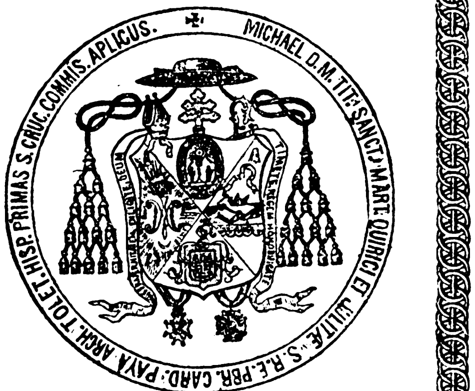
Sobre los frutos que deben restituir los Eclesiásticos, poseedores de beneficios simples, que no tengan aneja cura de almas, ni exijan residencia personal, por la omisión del rezo de las horas canónicas, de suerte que la cantidad de la composición se dé por mitad á las Iglesias ú otros lugares, por cuya razón se debieron rezar dichas horas canónicas, y la otra mitad para los fines piadosos á que se destinen por la citada Bula.

Sobre lo hurtado ó injustamente adquirido, si después de las debidas diligencias no se hallaren las personas á quienes se hubiere de hacer la restitución, prestando juramento los deudores de haber practicado dichas diligencias, y con tal que los mismos no hayan hurtado ó adquirido en confianza y bajo la esperanza de esta composición.

En su consecuencia, usando de la expresada facultad Apostólica, hemos tenido por bien y queremos que cualquiera persona de las arriba dichas, que tomando este Sumario, diere la limosna que más adelante se señala para los santos fines de la concesión, sea libre de restituir lo que debiere por cualquiera de las referidas causas hasta en la cantidad de catorce pesetas cuarenta y cinco céntimos, con declaración de que, quien se haya de componer sobre lo que deba restituir por omisión de las horas canónicas, haya de dar otra tanta limosna abajo señalada á la Iglesia ó lugar, por cuya razón estuvo obligado al rezo de ellas. Y si más montare lo que así estuviere debiendo, cuantas veces tomare este Sumario y diere la referida limosna, tantas sea compuesto á razón de catorce pesetas cuarenta y cinco céntimos por cada uno, con tal que la composición no exceda de setecientas treinta y cinco pesetas veintinueve céntimos; porque de ahí arriba deberá recurrir precisamente á Nós, para que proveamos sobre ella, y con calidad de que los tales deudores no hayan habido en confianza de esta concesión las cantidades ó cosas sobre que se han de componer. Y por cuanto vos disteis para los expresados santos fines la limosna de una peseta quince céntimos, y habéis recibido esta Bula (de la cual habéis de usar en manera que ningún otro pueda intentar aprovecharse de ella, ni se cause perjuicio de otro modo á la Santa Cruzada), quedáis libre y absuelto de restituir lo que debierais en la forma y con las cualidades arriba dichas hasta la suma de catorce pesetas cuarenta y cinco céntimos, sobre los cuales os concedemos esta composición, que mandamos dar impresa, firmada de nuestro nombre, y sellada con nuestro sello acostumbrado en Madrid á primero de Marzo de mil ochocientos ochenta y ocho.



Migl. Card. Payá, Arzpo. de Toledo



Madrid: Tip. de los Huérfanos, Juan Bravo, 3.

This whole business is so curious a development of the power of the keys that a cursory glance at some of the details of its practical working as set forth by its authorized expositors may not be amiss. We have seen that at first, when the person robbed or defrauded could not be found, the whole amount was to be paid over to pious uses. Rodriguez admits this to be the law, but he argues that the pope is above all human law—*es sobre todo derecho humano*—and if he offers the composition it is binding and tends to the salvation of the sinner's soul; but this power is confined exclusively to the pope—kings have it not, and bishops can only exercise it as his deputies.[1] At the same time the distinction is drawn that, if the sinner compounds and does not in his soul desire to make full restitution, he remains in mortal sin, and it is added that of a hundred who take advantage of the composition there are very few who are not in this category[2]—a somewhat damaging admission that the Church, for the pitiful percentage received, cheated both the debtor and the creditor. As regards the diligence required to discover the creditor, the sinner is not obliged to do all that is possible, but only as much as a good and God-fearing man would do. If subsequently the creditor appears and demands his dues, the question is disputed whether he can recover in Court, less the amount paid in composition and what the debtor has spent in good faith or given in pious works.[3] Strangers coming to Spain

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hujusmodi compositionis illa non abstulerint seu acquisiverint."—Sanchez, p. 429; Salces, p. 392. Cf. Marc Institt. Moral. Alphonsianæ, n. 1029.

It will be noted that the restriction here expressed, that the composition is good only in the forum of conscience, is carefully omitted in the printed *bula*.

[1] Rodriguez, *op. cit. Bulla de Composicion*, n. 5, 7.

[2] Ibid. n. 11.

[3] Rodriguez (*loc. cit.* n. 8, 10) says the creditor can recover. Escobar (Theol. Moral. Tract. III. Ex. ii. n. 20) says he cannot. Diana (Summa s. v. *Bulla Compositionis* n. 3) holds that the bull is equivalent to prescription, and the creditor cannot recover, for the pope is administrator of all temporal property as to spirituals. Sanchez tells us that the theologians hold that if the creditor or owner appears there is no obligation to pay him, as restitution has been made by the bull. But in modern times the restitution is only *in foro conscientiæ*, and if he claims the debt judicially it cannot be resisted, especially as the debtor has destroyed his *bula* and has no evidence. If, however, the loser forbears through ignorance, the debtor or thief can remain with a quiet conscience because the restitution has been made before God.—Prontuario de la Teología Moral, Trat. XIII. Punto 5.

can compound and depart immediately,[1] thus rendering the Spanish dominions a place of pilgrimage for conscientious rogues. When a legacy is left in restitution of ill-acquired gains and the legatee fails to claim it within a year, the heirs, although they know him perfectly well, can compound with the Cruzada for one-half of it, at the rate of two reales for 5000 maravedises, and then they are required to pay only the other half to the legatee.[2] In all cases of legacies, where the legatee cannot be found with due diligence, and similarly with trust funds and deposits, they can be compounded for and kept.[3] With regard to judges accepting bribes, the distinctions invented by the casuists are recognized. If the bribe has been earned by rendering an unjust judgment, the judge should compound with the Cruzada, after which he can rest with an easy conscience—*y quedara seguro en conciencia*—but if it is for rendering a just judgment there is a further distinction, for if the money has been given unwillingly to prevent his being bribed by the other side, he should refund it in full to the pleader, while if given willingly to invite him to do justice, he can compound for it and keep it.[4] It is the same with ecclesiastical judges in temporal cases, but not in spiritual matters, for in the latter, we are told, bribery is against the law (*contra derecho*) and therefore is simony.[5] Gambling gains are discussed at great length, the conclusion being that the winner is not obligated to restitution unless he compelled the loser to play, or has cheated, or the loser is a person dependent, as a minor, a married woman, a monk, etc. Then, if the loser cannot be found, the winnings can be compounded for.[6] The restitution of gains obtained by pretence of poverty or sanctity involves many nice distinctions as to the mental operations of the giver—whether the sanctity or poverty was the *causa impulsiva* or

[1] Rodriguez, n. 12.

[2] Ibid. n. 19. This is still in force in the modern Cruzada, but it is good only in the forum of conscience and conveys no legal exemption.—Sanchez, Expositio, pp. 386, 387.

[3] Rodriguez, n. 20.—This is still in force as regards legacies, but whether it applies to deposits is doubtful.—Sanchez, Expositio, p. 388.

[4] Rodriguez, n. 21–23.—Still in force, with the addition that for an unjust judgment the judge should repair it if the victim can be found.—Sanchez, Expositio, pp. 389, 391.

[5] Rodriguez, n. 26–7.

[6] Ibid. n. 30–46.—Virtually the same at present.—Sanchez, Expositio, pp. 392–3.

causa final of the gift. This clause includes also "alms" for masses, when the priest directs his intention otherwise than that paid for. No definite instructions can be framed for such a subject except that when restitution is due, composition can be made for it.[1] The same may be said as to questions arising from hunting, keeping pigeons, injuries done by cattle, privileges of forests, common lands, etc.[2] Public prostitutes are not obliged to make restitution, and consequently need not compound for keeping the wages of sin, unless they have received from minors sums greater than the ordinary price, but men who have promised them money without paying it must compound. As for women not publicly immoral, it is proved dialectically that if unmarried they must make restitution or composition for presents received from their lovers, while if married they need not. All women, however, are held to restitution or composition for money obtained by deceit.[3] Short weight and measure, watered wine and

[1] Rodriguez, n. 47–51. Sanchez admits the difficulty of these cases (pp. 393–5).

[2] Rodriguez, n. 52–61.

[3] Ibid. n. 62–67. In the modern Cruzada public women are not alluded to. It is universally conceded by theologians that they have a right to their wages (Alex. de Ales Summæ P. IV. Q. XXXIII. Membr. ii. Art. 5.—S. Th. Aquin. Summæ Sec. Sec. Q. LXII. Art. 5 ad 2, Q. LXVII. Art. 2 ad 2.—Savonarolæ Confessionale fol. 60*a*). In discussing this subject, however, Sanchez (pp. 400–1) gives as authoritative an opinion of the Salamanca theologians (Cursus Theol. Moral. Tract. xiii. n. 158), contrary to that of Rodriguez in some respects, which is a curious specimen of morals—"Ceterum quia, ut docuimus, communior et probabilior opinio tenet non solum mulieres publice inhonestas, verum etiam quæ occulte tales sunt, sive sint uxoratæ vel viduæ honestæ famæ, virgines aut etiam moniales posse licite et valide pretium pro usu sui corporis recipere, illudque, opere sequnto, retinere, consequenterque ad illius restitutionem non obligari, asserendum in præsente est, nullam mulierem inhonestam, sive publicam sive occultam, compositione in hoc casu a Commissario concesso opus habere, sed rem sibi donatam, sive in pecuniis sive in aliis rebus pro actu turpi perpetrato, posse sibi reservare, absque ulla restitutionis aut compositionis obligatione . . . Poterunt autem mulieres occulte inhonestæ circa id quod acceperunt compositioni operam dare pro majori suæ conscientiæ quiete et securitate." But if she has received the money and not given the *quid pro quo* she is held to restitution or composition.

The same rules apply to men hired by unchaste women, except that if the woman is married and has not separate property out of which the hire was paid, it should be returned to the husband and is not the subject of composition.

The question as to the right of "honest" women to retain the wages of sin is not one on which the authorities are wholly in accord. Gabriel Vazquez

adulterations in general ought to be compounded for, though the great name of Soto is quoted for the opinion that dealers are justified in such practices and need not seek composition when the prices fixed by law for oil, grain, wine, cloths, etc., are such as to force them otherwise to sell at a loss.[1] In general terms, all property wrongfully acquired, by usury, robbery, theft, fraud, etc., is a subject for composition if restitution cannot be made, unless, indeed, it has been obtained in expectation of settlement by composition, in which case it should be surrendered wholly to the Cruzada. Yet even here the casuist draws a convenient distinction: if the assurance of being able to make the composition is the *causa positiva* of the fraud or robbery—the sole impelling motive—the Cruzada takes it all, but if it is only one of the motives—a *causa concomitante*, then the holder can compound.[2]

In view of the moral influence of such a system on the training of the people, we need not feel surprised at the ingenuous confession of Rodriguez that a certain high personage accused him of giving licence to thieves by discussing all these cases in the vernacular. His defence is that he had not done so of his own authority, but by command of the Commissioner General and Council of the Cruzada, who doubtless desired to stimulate the demand for their wares, and he dilates unctuously on the sweet benefits of composition based on the sweet yoke of Christ our Redeemer.[3]

(Opusc. Moral. *De Restitutione* cap. vii. n. 11) holds that they can, but admits that many moralists are of the opposite opinion. The rigid Concina (Theol. Christ. contract. Lib. IX. cap. ii. n. 31) while admitting that restitution is not required, argues that the money should be given to the poor, as otherwise there is no real repentance. There is also a question as to whether a payment from a monk to a prostitute should be refunded, because the money belongs to his monastery. Vazquez (*loc. cit.* n. 13) and the *Salmanticenses* (ubi sup. n. 161) assert that restitution is necessary, even if the superior has given permission for this use of the money, while Concina (*loc. cit.* n. 32), considers that the payment is valid.

[1] Rodriguez, n. 68–74. The same in Sanchez (p. 402), except that Soto is not quoted.

[2] Rodriguez, n. 75. Sanchez (p. 377) expresses the same limitation, without the distinction. In fact, it is in the papal bull of the Cruzada.

[3] Rodriguez, Palermo edition, pp. 55–6. This passage is not in the earlier Spanish version.

Shortly before this Domingo Soto (In IV. Sentt. Diss. XXI. Q. 2, Art. 4) had

In the bull of the Crociata, granted by Pius VI. to Naples, in 1777, there is no clause providing for compositions.[1]

Finally, a necessary requisite for absolution is the capacity of the penitent to discern between good and evil. This gives rise in practice to many difficult questions. Father Gobat relates that a distinguished confessor applied to him for an opinion as to his action in refusing absolution to a prince's fool, who confessed to him a number of serious sins and whom he dismissed with a benediction, not considering him capable of absolution, and Gobat, after weighing the probabilities on either side, approved of the decision. The question, as we have already seen (I. 403), is one which often arises in the confessions of young children, seven or eight years of age, causing much anxiety to conscientious confessors, who naturally feel that they may be granting absolution when it should be denied, or refusing it when it should be given.

Thus the labors of theologians have provided ample store of rules as to the disposition and intentions requisite for the acquisition of absolution, but their interpretation and application must, after all, depend upon the temper and training of the confessor, who, with the power to bind and to loose, does not receive the divine illumination requisite for its exercise. There has always been complaint that some confessors are too rigid and others too benignant; the tendency to the latter failing has grown during the last three centuries with the growth of the laxity introduced by probabilism, until it has become predominant. During the seventeenth and eighteenth centuries, the Gallican Church, as we have seen, inclined to rigorism, and the assembly of the French clergy, in 1655, expressed the pro-

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described the system of composition as stimulating fraud, especially in retail trade, and as giving rise to much popular dissatisfaction. He protests that he does not mean to detract from the papal authority or to interfere with the gains of the state, but he regards the percentage charged as entirely too low, for the profit it brings is inadequate to compensate for the incentive to fraud which it furnishes. Besides, when the sum is large, the debtor is apt to satisfy his conscience by taking two or three *bulas* and disregarding the surplus. Curiously enough, he treats as doubtful the question whether the composition is sufficient defence in case a creditor prosecutes his claim.

[1] Vella Dissertatio in Bullam Sanctæ Crociatæ, II. 12, Neapoli, 1789.

foundest sorrow at the deplorable facility with which, for the most part, confessors bestowed absolution.[1] In the next century Habert reiterates these complaints, and shows how habitual was this laxity by his description of the remonstrances to which confessors were exposed who endeavored to postpone absolution to those manifestly unfit, and the necessity which he feels to explain that this is not a new invention, but that the relaxation of wholesome discipline is an innovation on the ancient teaching of the Church.[2] Peter Dens, about the same time, endeavored to hold an intermediate position, and describes as equally destructive the rigor of those who refuse absolution and the laxity of those who boast that they never refuse it even to the habitual sinner, thus sending, as St. Thomas de Vilanova says, confiding sinners to hell.[3] With the final triumph of probabilism under the influence of St. Alphonso Liguori the laxer system has prevailed, and all rigor is denounced as Jansenism, but the reiteration by Father Müller of the evils of both extremes[4] only proves that the Church has not yet succeeded in overcoming the inherent difficulty of substituting man for God.

[1] Habert Praxis Sacr. Pœnitent. Tract. IV. (p. 338).

[2] "Falsum est quod recens subinventa est hæc praxis; eam quippe ecclesia servavit omnibus sæculis contra relaxationes quæ hodierna die pro illius disciplina traducuntur."—Ibidem.

At the same time his theory is that absolution is not to be refused but only postponed, and while his instructions as to the method of doing this contain much that is admirable, there is a curious mingling of artifice in the suggestions as to how the penitent is to be led on from week to week by promises, for the non-performance of which some excuse is always to be found.

[3] P. Dens Theologiæ T. VI. n. 119.

[4] Father Müller endeavors to establish a golden mean between the extremes —"The good confessor avoids laxism and rigorism. The laxist, who never asks any questions, who absolves every one, whether worthy or not, who hears confessions by steam and puts through a large number of penitents every hour —such a confessor only hardens the sinner and heaps sacrilege upon sacrilege . . . . The rigorist makes confession a 'carnificina conscientiæ,' he turns the sacrament of mercy into an intolerable burden. St. Thomas of Villanova calls rigorist confessors 'impie pios.' It is better that the confessor should sin *excessu quam defectu amoris*. The good confessor imitates the charity of our Lord . . . . There is no doubt that many err by being too indulgent. Such confessors do great harm to souls; aye, even the greatest harm, for libertines go in crowds to these lax confessors and find in them their own perdition. It is also certain that confessors who are too rigid cause great evil."—Müller's Catholic Priesthood, III. 145–6.

CHAPTER XVI.

PUBLIC AND PRIVATE PENANCE.

ALTHOUGH public confession and reconcilation remained in force for notorious and scandalous sins, for secret sins they commenced gradually to decline after the middle of the fifth century. We have seen (I. p. 183) that Leo I. decreed that private confession sufficed for such sins, and though the public ceremonies still for many centuries continued to be sought by secret penitents, the rule in time established itself that public penance, with its termination in public reconciliation, was only essential in the case of public offenders, while private penance and private reconciliation sufficed for those whose wrong-doing was hidden and was only known through voluntary confession. The bishops retained control over the former, and after a struggle resigned the latter to the priests, subject to the episcopal right of reserving special sins. At first this was owing to the size of the dioceses in the missionary lands and the material obstacles in the way of access between prelate and penitent, and it developed under the influence of the sacramental system when priests were finally admitted to a share in the power of the keys.

The change came slowly, and was not simultaneous throughout Latin Christendom at a time when communication was infrequent and precarious and each diocese was autonomous. The first step was the temporary disappearance of public penance, except, probably, within the immediate jurisdiction of Rome. That it, with its intolerable burdens, should be rejected by the Barbarians, among whom the personal punishment of freemen was unknown, was inevitable, and the Church might be well satisfied if it could induce its wild converts to undergo the milder processes of fasting and exclusion from the sacraments—the latter of which, as we have seen (I. p. 508) was reduced to six months or a year. Already, towards the close of the seventh century, the Penitential of Theodore informs us that in England neither public penance nor reconciliation

was enforced.[1] On the Continent, in 813, the council of Châlons complains that almost everywhere it is abandoned, and the good fathers supplicate Charlemagne to order its observance for public sins.[2] He turned a deaf ear to this suggestion, but his son and successor, Louis le Débonnaire, was more heedful of the wishes of the Church, and in 819 favored the effort to restore the custom. To remove the objection of the risk incurred in that stormy age by the deprivation of the right to bear arms, he protected penitents by a triple fine for their murder, in addition to the *wer-gild* or blood-money payable to the kindred of the slain, and this provision was carried into the Lombard Law and the collections of canons.[3] Louis gave a still more emphatic proof of his respect for the ancient observances when he astonished his warlike nobles, in 822, by appearing before a council of bishops at Attigny, where he confessed to undue cruelty in the suppression of the rebellion of his nephew Bernard, King of Italy, expressed his profound contrition, asked for penance and reconciliation, and duly accepted the sentence rendered by appearing as a public penitent. This was not held to deprive him of the right to bear arms, but after his deposition by his sons in 833, when Lothair I. desired to render his resumption of the crown impossible, he was induced at Compiègne again to ask for penance, and this time the bishops imposed one which prohibited his wearing arms for the future. Restored to the throne by the counter-revolution of 834, he abstained from carrying a sword until he was formally reconciled at St. Denis, and the weapon was ceremoniously belted on him by the hand of a bishop.[4]

This imperial example produced a profound impression, but at the time it failed to find imitators among the lawless warriors of the period. Towards the middle of the century Jonas of Orleans repeats the regret of the council of Châlons; public penance was so

[1] Pœnit. Theodori Lib. I. cap. xiii. § 4 (Wasserschleben, p. 197). "Reconciliatio ideo in hoc provincia publice statuta non est, quia et publica pœnitentia non est."

[2] C. Cabillonens. II. ann. 813, cap. 25 (Harduin. IV. 1036).

[3] Ludov. Pii Capit. I. ann. 819, cap. 5.—Leg. Langobard. Ludov. Pii. xiii.—Bened. Levitæ Capitul. Lib. IV. cap. 18; Lib. V. cap. 107.—Isaaci Lingonens. Capit. Tit. I. cap. 2.—Reginon. de Eccles. Discipl. Lib. II. cap. 30, 190.

[4] Thegani de Gestis Ludewici Imp. cap. 23.—Eginhard. Vit. Ludov. Pii ann. 822.—Astronomi Vit. Ludov. Pii ann. 822, 834.—Exauctoratio Hludowici (Migne, XCVIII. 659).

completely disused that he is obliged to go back to St. Augustin to describe what it is, and he ascribes the wickedness of the age to the neglect of so salutary a remedy.[1] Yet the movement was now on foot out of which, in the ignorance and confusion of the age, the sacerdotal power was to attain a height hitherto undreamed of, and the forgers of the False Decretals did not neglect this in their comprehensive scheme. They recognized the impossibility of reviving its use for all penitents, and they formulated a distinction which continued in force for many centuries, when, in an epistle attributed to Calixtus I. (A.D. 217–222), public penance is ordered only for those whose crimes are public and notorious.[2] The effort was one certain to find favor with the bishops, as it aided them in retaining the control over penitence, which was slipping into the hands of the priests, and we have seen how strenuously at this period the latter were forbidden to grant reconciliation without episcopal authority. Benedict the Levite, who was so active a promoter of the new movement, promptly accepted this, and prescribed that all public sins shall be visited with public penance; he describes all its details as a matter to be strictly followed, and the adoption of his directions in the collection of Isaac of Langres indicates how ready the bishops were to avail themselves of it. Halitgar of Cambrai, indeed, goes further, and rather grudgingly makes the concession that private penance can win pardon of sin, provided the penitent changes his garments, amends his life and mourns perpetually.[3]

The penance thus prescribed was enforced by excommunication of those who did not perform it when enjoined, or who should, without episcopal licence, take communion during the seven years during which it lasted, and also of priests who should neglect to report offenders and eject them from the church, or who should refuse to receive back those who had performed it.[4] Benedict's Capitularies were manufactured at Mainz, which was the headquarters of the movement, and we can see the steps taken to reduce these prescriptions to practice, in the declaration of the council of Mainz, in 847,

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[1] Jonæ Aurelian. de Instit. Laicali Lib. I. cap. 10.

[2] Ps. Calixti Epist. ad Galliæ Episcopos.

[3] Bened. Levitæ Capitul. Lib. V. cap. 116, 136.—Isaaci Lingonens. Capit. Tit. I. cap. 17.—Halitgari Pœnit. Præfat. (Canisii et Basnage II. II. 89).

[4] Bened. Levitæ Capitul. Lib. V. cap. 137.—Isaaci Lingonens. Capit. Tit. I. cap. 18.

that, while sins privately confessed are to be treated with private penance, public offences must be visited with public penance; and further in the action of subsequent councils in the same region, which lay down most rigorous rules in minute detail.[1] Under this impulsion the system sprang into renewed life. Seven years, to be spent in the various stages of penance, became the accepted standard for all mortal sins, with longer terms for those of special guilt, and we have numerous decisions of the popes of the period prescribing the severe observances in which these stages should be passed.[2] In Germany, at least, these rules were enforced, when possible, in all their rigor. A contemporary writer describes as a common occurrence the performance of seven years' penance, the sinner wandering barefooted and living on vegetables and water, forbidden to enter a house or to pass two nights in the same spot.[3]

In France the impulse was also felt. About the middle of the ninth century, Rodolph of Bourges lays down with great clearness the rule that public sins are to be visited by the bishops with public penance at discretion, ending with the reconciliation by the bishop or by his authority, while hidden sins, spontaneously confessed to the priest, are to have private penance imposed in accordance with his judgment—the reconciliation in either case being readmittance to the sacraments.[4] Hincmar of Reims, with his customary vigor, took hold of the matter and endeavored to organize a thorough system by which no public criminal should escape public penance—and it is perhaps significant that he makes no reference to private confession, as though it were virtually unknown. Every priest, on hearing of a crime committed in his parish, is to summon the criminal to appear before him and the dean, who are to investigate the case and report to the bishop; the offender within fifteen days is to present

[1] C. Mogunt. ann. 847, cap. 31 (Harduin. V. 14).—Burchard. Decr. Lib. XIX. cap. 37.—C. Tribur. ann. 895, cap. 54–58 (Hartzheim I. 407).

[2] Nicholai PP. I. Epist. 133, 136.—Cap. 17 Caus. XII. Q. ii.; Cap. 3 Caus. XXVI. Q. vii.—Cap. 15 Caus. XXXIII. Q. ii.

It was probably with a view to reconcile sinners to the unaccustomed hardships of the revived penance, that a canon was manufactured and attributed to a council of Rome under Sylvester I., ordering that no penance should be imposed for less than forty years.—C. Roman. sub Ps. Sylvest. cap. 12 (Migne, VII. 837–8).

[3] Ps. Theodori Pœnitent. cap. 1 (Wasserschleben, p. 568).

[4] Rodolphi Bituricens. Capitula, cap. 44.

himself before the bishop and accept public penance, under pain of segregation until he submits, and priests neglecting this duty are to be suspended. At the monthly meeting of priests in each deanery a record is to be made of how each penitent is performing his penance, which is to be transmitted to the bishop as a guide to determine when to admit him to reconciliation. No penitent dying during penance is to be denied the *viaticum*, but if he recovers he is to complete his penance and be reconciled in due time.[1] In the prostration of the civil power the Church thus sought to replace it by a resuscitation of the ancient system on an elaborate practical basis, dealing wholly with the *forum externum* and promising reconciliation to the Church without assuring reconciliation to God.

Thus revived, the custom of public penance for public and scandalous crimes continued to be enforced, at least in so far as was possible in that turbulent age, and various councils of the period busied themselves with devising schemes of severity which rivalled the ancient rigor.[2] We have seen (I. pp. 193, 195) that at the end of the ninth century Riculfus of Soissons, and in the middle of the tenth Atto of Vercelli, formulated a plan not unlike that of Hincmar, while preserving silence as to private sins, and the manual on the Divine Offices, which passes under the name of Alcuin, but belongs to this period, seems to know nothing of any process save that of public penance and reconciliation.[3] Ratherius of Verona soon afterwards admits that his priests can enjoin penance on secret sins, but orders all public ones to be referred to him.[4] That the rite of publicly reconciling penitents on Holy Thursday was regularly observed is evident from a chance phrase of Thietmar of Merseburg in describing the obsequies of Otho III. at Cologne, in 1002,[5] while in Spain it would appear from a canon of the council of Coyança, in 1050, that priests were allowed to have jurisdiction over public male-

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[1] Hincmari Remens. Capitula, III. cap. 1.—Cf. Abbon. Sangermanens. Sermo II. (Migne CXXXII. 765).

[2] C. Wormatiens. ann. 868, cap. 26.—C. Moguntiens. ann. 888, cap. 16.—C. Nannetens. ann. incert. cap. 17.—C. Triburiens. ann. 895, cap. 5, 55, 56, 57, 58.

[3] Riculfi Suession. Constitt. cap. 9.—Attonis Vercellens. Capitulare, cap. 90. —Ps. Alcuin. de Divinis Officiis cap. 13, 16.

[4] Ratherii Veronens. Synodica (Harduin. VI. I. 792).

[5] Dithmari Merseburg. Chron. Lib. IV. cap. 33.

factors.[1] Thus far there was no abatement in either the length or the rigor of public penance. A Norman council of the eleventh century in enforcing the Truce of God prescribes for its violation a penance of thirty years, and seven years for any robbery, however insignificant, committed during the term.[2] As for its rigor, though Gregory VII. seems to admit that it was unendurable, when he counsels those unwilling to undergo it not to despair but to do what good they can until God strengthens their hearts to undertake it, still, when once undertaken, it had to be endured, for when he heard that a penitent, Rainerio of Chiusi, was proposing to marry, he denounced his penitence as fictitious and ordered him to be sent to Rome to learn what was fitting for his salvation.[3] This expression shows that public penance now was regarded as a matter of the *forum internum* as well as *externum*, at least in so far as its neglect implied perdition, and the same is intimated in canons issued by succeeding popes, warning all bishops and priests that no one can be saved who performs penance for a number of sins if a single one is omitted, nor if he continues a career in courts or trade which involve sin, nor if he does not forgive offences and render satisfaction for injuries. At the same time this persistent effort is significant of the growing obsolescence of the system which it sought to reanimate, for the assertion is made that the greatest trouble in the Church is that caused by the false penance in which these rules are neglected.[4] How true this was is proved by the remark of Honorius of Autun, that public penance is made a subject of jest by penitents, who regard it rather as an opportunity of indulging the flesh than of mortification.[5]

With the evolution of the sacramental theory and the development of the confessional with priestly absolution, public penance declined in importance. Allusion has been made (I. p. 48) to the modifica-

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[1] C. Coyacens. ann. 1050, cap. 6 (Aguirre IV. 405).

[2] Bessin Concil. Rotomagens. p. 39.

[3] C. Roman. V. ann. 1078, cap. 5 (Cap. 6 Caus. XXXIII. Q. iii. Dist. 5).—Gregor. PP. VII. Regist. Lib. II. Epist. 48.

[4] Synodi Urbani II. ad Melphiam ann. 1086, cap. 16; C. Claromont. ann. 1095, cap. 5; C. Lateranens. II. ann. 1139, cap. 22 (Harduin. VI. II. 1687, 1736, 2212).—Cap. 8 Caus. XXXIII. Q. iii. Dist. 5.

[5] Honorii Augustodun. Elucidarii Lib. II. cap. 18.—"D. Quid dicis de publicis pœnitentibus? M. . . . In pœnitentia constituti diversa fercula quærunt, variis poculis inebriari gestiunt, et omnibus deliciis plus quam alii diffluunt."

tions which it underwent as applied to ecclesiastics. As regards the laity, when the schoolmen undertook to reconstruct the system of discipline out of the somewhat incongruous elements resulting from the transition of the old system into the new, they recognized three kinds of penance—solemn, public and private. The so-called solemn penance was the primitive public penance, to be imposed and removed only by bishops, with its Ash Wednesday ejectment from church and Holy Thursday reconciliation. The so-called public penance could be administered by priests, and only differed from the private penance in that the ceremony was performed before the congregation, or the penance was such that it was necessarily known of all men. The private penance will be considered presently.

The rite which came to be known as solemn penance, as of old, could be imposed but once; it disabled the penitent for marriage, trade, bearing arms and holy orders, it included shaving the head and penitential garments, and could not be prescribed for a cleric. It might be limited to a single Lent or might be continued for years, the penitent being required to present himself on each Ash Wednesday and Holy Thursday for the edification of the faithful. It was sacramental, and was only administered in reserved cases—or, as Astesanus tells us, for peculiarly atrocious, notorious cases, while public penance was for public sins, and private penance for secret ones[1] It had, however, become a solecism, for by this time the distinction between the *forum internum* and *externum* was clearly recognized, and though it was classed as sacramental, in reality it was not regarded as remedial, but as vindictive and deterrent—not an infliction for the health of the sinner's soul, though it might be expiatory, but rather as a penalty for crime and a spectacle to strike terror into

[1] S. Raymundi Summæ Lib. III. Tit. xxxiv. §§ 3, 4.—Alex. de Ales Summæ P. IV. Q. XIV. Membr. vi. Art. 3.—S. Th. Aquinat Summæ Suppl. Q. XXVIII. Artt. 1, 2, 3.—S. Bonaventuræ Confessionale Cap. iv. Partic. 2, 3; cap. v. Partic. 30.—Guill. Durandi Spec. Juris Lib. I. Partic. 1, § 5, n. 22.—Statut. Synod. Jo. Episc. Leodiens. ann. 1287, cap. 4 (Hartzheim III. 689).—C. Claromont. ann. 1268, cap. 7 (Harduin. VII. 596).—Statut. Synod. Camerac. ann. 1300–1310 (Hartzheim IV. 69).—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiii. Q. 8, 9, 10; Tit. xxxiv. Q. 12.—Astesani Canones Pœnitential. § 29; Summæ Lib. v. Tit. vi. Q. 3; Tit xxxiv. xxxv.

Yet some doctors, as Duns Scotus, held that public confession could not be sacramental, because the sacrament could only be administered in secret.—Astesani Summæ Lib. v. Tit. xviii.

others.[1] It gradually grew obsolete, though in the autonomy of the individual churches it lingered much longer in some places than in others. As early as about 1170, Peter of Poitiers informs us that it was a local custom, observed in some places and not in others.[2] In 1225, Honorius III. includes among the functions of the bishops the ceremonies of Ash Wednesday and Holy Thursday, and about the same time William, Bishop of Paris, instructs the parish priests to bring forward their solemn penitents on those days.[3] In 1281 the council of Lambeth regrets that it had fallen virtually into disuse, and endeavors to revive it, though about the same period William Durand describes the public confession and the solemn ejection from the church on Ash Wednesday as a ceremony still usual.[4] The existing uncertainty is seen in the remark of Aquinas that in many places there was no distinction between solemn and public penance, and they are treated as identical, in 1338, by Bartolommeo da S. Concordio.[5] In 1317, Astesanus speaks of it as being still in force in some places for parents who overlie their children, and soon afterwards Durand de S. Pourçain describes it fully, but adds that in many churches it is not observed, for scarce any one can be found who will submit to it.[6] Yet still it lingered. In 1389, John, Bishop of Nantes, endeavored to revive it; a ritual of about 1400 used in Lyons and Tarantaise contains the full ceremony, and, in 1454, the council of Amiens speaks of it as an episcopal function, while in Valencia, we are told, that in the fifteenth century the penitents were assembled as of old on Ash Wednesday.[7] Among the systematic

[1] Alex. de Ales Summæ P. IV. Q. XIV. Membr. vi. Art. 1.—"Ratio autem hujus est multiplex. Una est enormitas criminis et publicatio ejusdem. Alia est debitum puniendi; maxima enim irreverentia peccantis maxima confusione est punienda. Tertia est incussio timore ne committatur consimile. Congruit nam quod aliqui puniantur tali pœnitentia, ne alii qui ad consimile proni sunt audeant simile attentare."

[2] P. Pictaviens. Sentt. Lib. III. cap. xiv.

[3] Compil. V. Lib. I. Tit. xvi. cap. 3 (Friedberg, Quinque Compilat. Antiq. p. 157).—Guillel. Paris Addit. ad Constitt. Galonis cap. 9 (Harduin. VI. II. 1978).

[4] C. Lambethens. ann. 1281, cap. 8 (Harduin. VII. 865).—Guill. Durandi Rationale Divin. Offic. Lib. V. cap. xxviii. n. 17, 19; cap. lxxiii.

[5] S. Th. Aquinat. Summæ Suppl. Q. XXVIII. Art. iii.—Summa Pisanella s. v. *Confessor* I. § 1.

[6] Astesani Summæ Lib. V. Tit. xxxv. Q. 3, 4.—Durand. de S. Porciano in IV. Sentt. Dist. XIV. Q. iv. §§ 8, 10.

[7] Statut. Jo. Episc. Nannetens. ann. 1389, cap. xiv. (Martene Thesaur. IV.

writers of the pre-Reformation period, Bartolommeo de Chaimis and Prierias still give the tripartite division of penance into solemn, public and private, but S. Antonino and Angiolo da Chivasso, while stating that solemn penance is indicated for sins grave, public and causing scandal, omit its description because it is no longer in use, and Gabriel Biel describes it, but says that it is observed in very few churches.[1] Subsequent writers either pass it over in silence or only allude to it as an obsolete custom.[2] Thus disappeared from sight one of the most ancient and venerable usages of the Church, on which it originally depended for the maintenance of its discipline, leaving behind it only the indelible trace in the language of the names of Shrove Tuesday and Ash Wednesday.

The so-called public penance which supplanted the ancient rite was an outgrowth of a time of confusion and transition, when old systems were passing away and new theories were establishing themselves. The symbolical expulsion from and readmission to the Church was the formula of the period when reconciliation to the Church was all that could be promised to the repentant sinner, and when the bishop alone wielded whatever power was regarded as inherent in the keys. Medieval public penance grew up when reconciliation was developing into absolution, when both bishop and priest enjoyed the power of the keys, and consequently it was common to both orders, while the penalties which accompanied it were discretional and no longer those prescribed by the canons. The system of reserved cases was establishing itself, so that only the ordinary sins were left to the jurisdiction of the priest; when these were public and notorious, he was instructed to prescribe public

986).—Martene de antiq. Eccles. Ritibus Lib. I. cap. vi. Art. 7, Ordo 19.—C. Ambianens. ann. 1454, cap. v. § 4 (Gousset, Actes etc. II. 710).—Vic. de la Fuente, Historia Eclesiástica de España, § CCLIV.

[1] Bart. de Chaimis Interrog. fol. 86*b*.—Summa Sylvestrina s. v. *Pœnitentia* §§ 2, 3.—S. Antonini Summæ P. III. Tit. xiv. cap. 17 § 6.—Summa Angelica s. v. *Pœnitentia* §§ 1, 3, 5.—Gab. Biel in IV. Sentt. Dist. XIV. Q. iii. Art. 3, Dub. 6.

[2] Bart. Fumi Aurea Armilla s. v. *Pœnitentia* n. 2.—Yet as late as 1571 the council of Besançon (Hartzheim VIII. 159) describes the three kinds of penance as though all were still in force. Solemn penance is particularly indicated for heretics returning to the Church. Public penance, as we shall see, has in fact been retained for heretics.

penance, but this differed little from private penance, save that it was administered in the face of the congregation, so that the people who were cognizant of the offence might witness its repentance and punishment, and at most it usually comprised a pilgrimage to some shrine more or less distant. The more serious and scandalous crimes fell to the bishop or to the pope, who treated them at discretion. The old limitation to a single penance disappeared, as well as the disabilities as to war and trade and marriage. About 1325, Durand de S. Pourçain shows that these restrictions were obsolete and were only remembered by reference to the old authorities; the penitent was required not to be present at lewd plays and spectacles, but he could witness passion and miracle plays; if willing to abandon war and trade, it was laudable to do so; but, if not, it sufficed if he preserved himself from the sins usually induced by those pursuits.[1]

Like solemn penance, public penance was an anomaly in the sacramental system—an attempt to fit an ancient rite into dogmas which had grown incompatible with it. The character of the arbitrary penances inflicted was punitive, intended rather to inspire terror in others than to lead the soul of the sinner to salvation, yet the sacramental character of the observance was insisted on. No matter how notorious the offence might be, it had to be confided to the priest in confession, so that he might learn it in his capacity of a vicar of God.[2] Albertus Magnus tries to reconcile the incongruity by the argument that although a public sinner is bound only to make his repentance manifest to the priest, he is further bound to offer a good example to the community which he has scandalized and perverted by his offence.[3]

A few examples may be cited to show the varied nature of the penalties inflicted, on the highest as well as the lowest, serving often as a most salutary lesson that no one could escape responsibility to God and the Church. Before the distinction between the *forum internum* and *externum* had been established, when, in 963, King Edgar the Pacific ravished the nun St. Wilfrida, after remorse made him seek the

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[1] Durand. de S. Porciano in IV. Sentt. Dist. XVI. Q. v. §§ 5, 6. Cf. Gab. Biel in IV. Sentt. Dist. XIV. Q. iii. Art. 3, Dub. 6.

[2] Rob. Aquinat. Opus Quadragesimale Serm. XXVIII. cap. 3.

[3] S. Antonini Summæ P. III. Tit. xiv. cap. 17 § 6.

ghostly aid of St. Dunstan, he accepted a seven years' penance, during which he was not to wear the crown, and accordingly he was not crowned until 973.[1] Still more impressive was the example of Otho III., who, by a perjured oath, in 998, had obtained the surrender of Crescentius and then put him to death, taking, moreover, his wife as a concubine. He confessed his sin to St. Romuald, who imposed on him the penance of walking barefooted from Rome to the Monte San Angelo, near Naples, where he passed Lent in a monastery, fasting and praying and sleeping on a mat of rushes, besides which he promised to abandon the imperial throne and embrace a monastic life.[2] The murder of Thomas Becket was more severely visited. The four knights who perpetrated it, Hugh de Morville, William de Tracy, Reginald Fitz-Clare, and Richard Briton, made submission after a year and were sent in penance to Palestine, where they died. All clerks concerned in it were debarred from entering a church for five or seven years, with other disabilities. Henry II. offered to purge himself to Alexander III., who sent two cardinals to absolve him. They met at Avranches, September 27, 1172, when Henry swore that he had had no intention of slaying Becket, but, as his hasty words might have led to the crime, he was ready to offer expiation. He submitted to scourging on the bare shoulders, he swore never to desert Alexander or his successors, so long as they acknowledged him as king, he promised to permit free appeals to Rome, to abolish the assizes of Clarendon, which had led to the quarrel, to assume the cross, and during the following summer to undertake a three years' crusade, meanwhile giving to the Templars funds to sustain two hundred knights in Palestine.[3] This shows the enormous advantage which the Church derived from its control of the keys, and how eagerly it availed itself of the position. In other

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[1] Osbern. Vit. S. Dunstani cap. 35.—Florent. Wigorn. ann. 964, 973.

[2] S. Pet. Damiani Vit. S. Romualdi cap. 25.

[3] Guillel. de Newburgh Hist. Angliæ Lib. II. ann. 1171.—Alex. PP. III. Epist. MXIV. (Post Concil. Lateran. P. XXXV. cap. 1).—Rog. de Hoveden Annal. ann. 1171, 1172.—Benedicti Abbatis Gest. Henrici ann. 1172.

Besides this, severe penance was ordered by Alexander on every one connected however remotely with the affair, from the counsellors who inflamed the wrath of the king to the porters who carried the baggage of the assassins, and all who consorted with them while under excommunication. Post Concil. Lateran. P. XXXV. cap. 1.

cases it contented itself with impressing on the people the sacredness and inviolability of the clergy. In 1202 a penitent approached Innocent III. and asked to be received to penance for having, at the command of his lord, in a local war, cut out the tongue of the Bishop of Caithness. He was sent home with orders to be led around, in drawers and shirt, for fifteen days in the region of his crime, with his tongue drawn out and fastened with a cord, to be scourged at each church-door, then to serve three years in Palestine, never to bear arms against Christians, and to fast on Fridays for two years, unless some bishop should sooner release him.[1]

Sometimes in this variety of penalties we find elements of the ancient penance, as in that imposed by Innocent III., in 1203, on the slayers of the Bishop of Würzburg. In this the chief features are that for life they are never to bear arms except against the Saracens or in self-defence; they are never to eat meat and never to marry if they become widowers; they are to perform various fasts and prayers and to serve four years in Palestine; they are never to wear colored garments or to be present at public spectacles; in four feasts of the year they are to be scourged at the cathedral altar of Würzburg and also whenever they enter a German city.[2] Somewhat later a general formula for such episcopal murders provides that the culprit shall satisfy competently the church thus widowed and shall forfeit whatever fiefs he holds of it; clad only in his drawers and with a halter around his neck and rods in his hands, he is to be led around all the larger churches in the diocese at a time when the concourse of people is greatest, and shall be scourged before their doors by priests singing penitential psalms while he confesses his crime; he is to serve for five years in Palestine, and during this time is to cut neither hair nor beard; throughout life, on the anniversary of the murder, he is to abstain from meat; on certain days he is to fast on bread and water; every day he is to recite fifty Paternosters and Ave Marias, and for three years, unless on the death-bed, he is not to receive the Eucharist.[3] The prescription of public penance even took the form of

[1] Innoc. PP. III. Regest. v. 79.

[2] Innoc. PP. III. Regest. vi. 51.—Trithem. Chron. Hirsaug. ann. 1203.

[3] Formulary of the Papal Penitentiary, p. 21 (Philadelphia, 1892).

This seems to be modelled on a penance imposed, in 1220, by Honorius III. on Bertrand de Cares for the murder of the Bishop of Auch.—Raynald Annal. ann. 1220 n. 30.

general criminal legislation so completely secularized that there was comparatively little trace left of spiritual penalties, and the sinner's soul was the last thing to be considered. Thus, in 1225, Honorius III. issued a decretal pronouncing infamous all concerned in assailing or injuring cardinals; they forfeit any fiefs held of churches; they are declared incapable of bequeathing or inheriting property, of bearing witness and of prosecuting or defending suits; for two generations in the male line their descendants are disabled from holding public office; they are excommunicated *ipso facto*, to be reconciled only on presenting themselves at the principal churches of the vicinage on Sundays and feast days to be scourged on the bare back, after which they are to serve for three years in Palestine, but subsequent to this reconciliation they can prosecute suits and recover debts accruing afterwards.[1]

These inflictions became milder with the general relaxation of the severity of penance in the later middle ages, as is seen in one prescribed in 1339 for Mastino and Alberino della Scala, who had murdered with their own hands Bartolommeo, Bishop of Verona. Summoned to trial by Bertrand, Patriarch of Aquileia, they alleged that their victim had been plotting their death and the surrender of Verona to the Venetians and Florentines. They sent a procurator to Benedict XII. at Avignon to express their deep contrition and to beg for absolution. Benedict relieved them from the forfeiture of fiefs which they had incurred and from the public penance prescribed by the canons, in lieu of which, within eight days after their absolution, they were to go on foot and bareheaded, with fifty men, each and all carrying a wax torch of six pounds in weight, offering the torches at the altar and humbly begging forgiveness of the canons. Within six months they were to present a silver statue of the Virgin weighing thirty marks (fifteen pounds) and ten silver lamps of three marks each, with revenues to keep them perpetually burning, and to endow six chaplaincies with twenty gold florins per annum. On every anniversary of the murder they were to feed and clothe

[1] Raynald. Annal. ann. 1225 n. 50–3.—For other examples of the period see Raynald. ann. 1239 n. 60–3; Innoc. PP. III. Regest. v. 80; Epistt. Selectt. Sæc. XIII. T. I. n. 647 (Monumenta Hist. German.). An exceedingly severe and humiliating penance inflicted by Gregory XI. on the mayor and burgesses of St. Valery, in the course of a quarrel between them and the Abbey of St. Valery, may be found in Martène, Thesaur. I. 981.

twenty-four paupers; during life to fast on Fridays and the vigils of the feasts of the Virgin, and in the next general crusade to send twenty men for a year's service in Palestine.[1] It should be observed, however, that in these cases it is not always easy to distinguish between the elements which, strictly speaking, belong respectively to the *forum internum* and *externum*, between what refers to sacramental absolution and to absolution from excommunication.[2]

Public penance was, however, not always strictly confined to public sins. Bishop William of Paris advises various penances to be performed publicly in church for offences against the Church, which might be either notorious or concealed.[3] This came to be regarded as undesirable, and in fact it was committing a dangerous power to parish priests, which might be abused either for extortion or the gratification of enmity. Chancellor Gerson lays it down as a positive regulation that no public observances shall be imposed for secret sins,[4] and in 1408, among the rules for the visitation of the province of Reims, one of the points to be inquired into is whether priests enjoin public penance for hidden sins, showing that it was an abuse to be suppressed.[5] Among the complaints of the Diet of Nürnberg in 1523 is that public penance was used as a means of extortion in the case of the graver sins, even when these were secretly confessed.[6]

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[1] Raynald. Annal. ann. 1339 n. 67–8. Somewhat similar was the penance imposed by John XXII. in 1330, on Loreta, Countess of Spanheim, for capturing during a truce Burchard, Archbishop of Trèves.—Raynald. ann. 1330 n. 51.

When the offenders were of the commonalty the Church was not quite so merciful. See the penance imposed by Boniface IX. in 1391 on a hundred citizens of Antwerp for the slaughter of some priests in a popular tumult.—Raynald. ann. 1391 n. 4.

[2] See Vol. I. pp. 468, 490.

Scourging, either actual or symbolical, formed part of the ceremony of absolution from excommunication. The penitent carried a rod with which he might be soundly beaten or only lightly touched. When offenders who had died under excommunication were absolved after death, it was anciently necessary to dig up their remains and inflict the scourging, but with the softening of modern manners this was modified, and it became necessary only to flog the grave.—Avila de Censuris Ecclesiasticis, pp. 37–40 (Lugduni, 1607).

[3] Guillel. Paris. de Sacram. Pœnitent. cap. 19.

[4] Jo. Gersonis Regulæ Morales (Ed. 1488, xxv. G).

[5] C. Remens. ann. 1408, Regulæ Visitat. cap. 19 (Gousset, Actes, etc. I. 662).

[6] Gravam. Centum Germ. Nationis n. 74 (Fascic. Rer. Expetend. et Fugiend. I. 270).

With the growth of strictness as to the seal of confession, this was considered to be a violation of it, and in the seventeenth century Bishop Zerola declares that it is to be punished with the penalty for the infraction of the seal—degradation and imprisonment for life, but Cardinal Lugo, who is much higher authority, only says that it is not required, nor is it expedient, to impose public penance for sins not public.[1]

Yet the most secret of sins in a persecuting age, that of heresy, was the one for which public penance was most frequently prescribed.[2] The effort of the Inquisition was directed to obtaining, by persuasion or force, a confession from its prisoners. If they admitted their guilt and persisted in their errors, they were "relaxed" to the secular arm and burnt as hardened and impenitent sinners. If they recanted and asked for mercy they were readmitted to the Church, and the punishments inflicted on them, whether imprisonment, or pilgrimages and scourging, or the wearing of yellow crosses, was technically regarded as penance voluntarily assumed by them as penitents for the salvation of their souls.[3] Even sacramental confession and absolution were not allowed to interfere with the necessity of public abjuration and penance. If a secret heretic confessed to his priest, accepted penance and was absolved, though he might be pardoned in the eyes of God, this did not satisfy the claims of the Church; he was still subject to prosecution by the Inquisition and to its penance, which carried with it confiscation of property and disabilities extending to two generations of descendants.[4] Thus the Sermons, or *autos de fe* of the Inquisition were exhibitions of public penance on a most impressive scale.

In spite of the support thus afforded to the maintenance of public penance, like the solemn penance which it had supplanted, it gradually fell into comparative disuse in the relaxation of the pre-Reformation

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[1] Zerola Praxis Sacr. Pœnit. cap. xxv. Q. 34.—Lämmer, Meletematum Romanorum Mantissa, p. 393 (Ratisbonæ, 1875).

[2] S. Bonaventuræ in IV. Sentt. Dist. XVII. P. ii. Art. 1, Q. 3.

[3] See the author's "History of the Inquisition of the Middle Ages," Book I. Chap. xii.

Even in the modern Spanish Inquisition the advice given to the accused was to confess and ask for penance, and the *penitenciados* appeared in the public *autos de fe* in penitential garments, with a yellow candle in the hand.

[4] Zanchini Tract. de Hæret. cap. xxxiii.

period. It still continued to hold its place in the books, but we hear comparatively little of its practical administration. That it was virtually obsolete is manifested by the attempt of Hermann of Wied, Archbishop of Cologne—who afterwards embraced Lutheranism—to restore it for public crimes, as part of a much-needed reform of his province, which he undertook in 1536.[1] In 1563, the council of Trent made an effort to follow his example. It argued from the dictum of St. Paul, that public sinners should be publicly rebuked (I. Tim. v. 20), that when a crime has been notorious a proper public penance should be imposed, so that he whose example has misled others may, by the evidence of his amendment, recall them to the right path. This was practically rendering the punishment deterrent, and the force of the injunction was fatally weakened by authorizing bishops to commute it to private penance.[2] In the counter-Reformation which followed the labors of Trent, numerous councils were held to restore the relaxed discipline of the Church, but this recommendation received comparatively little respect. In 1570 the council of Mechlin made a show of enjoining a revival of public penance, but the condition of the popular temper in the Netherlands at the time was not likely to render men submissive to a resuscitation of forgotten priestly discipline, and the bishops were warned to be prudent in the selection of those on whom they should experiment.[3] The council of Bourges, in 1584, was equally discreet in suggesting the commutation of public penance into private, according to the circumstances of time and place and person, and that of Bordeaux, in 1583, in recommending its revival took care to point out that bishops could commute it.[4] Evidently these were mere perfunctory demonstrations, and many other French councils held towards the close of the sixteenth century to enforce the decrees of Trent passed the matter over in silence.[5] In 1571 the council of Besançon alludes

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[1] C. Coloniens. ann. 1536, P. VII. cap. 38.—"In publicis vero criminibus, quemadmodum necesse est, ita jubemus ad canones antiquos publicæ pœnitentiæ regredi."

[2] C. Trident. Sess. XXIV. De Reform. cap. 8.

[3] C. Mechlin. ann. 1570, De Sacramentis cap. 6 (Harduin. X. 1181).

[4] C. Bituricens. ann. 1584, Tit. XXI. cap. 2; C. Burdegalens. ann. 1583, cap. 2 (Ibid. 1346, 1480).

[5] Juenin (De Sacramentis Dist. VI. Q. vi. cap. 8, Art. 2, §§ 1, 2) says that action on the subject was also taken by the assembly of the French clergy at

to public penance as still in force, with a suggestion that it had best be reserved for bishops to impose, and all that the synod of Brixen, in 1603, ventured to do was to instruct priests that public sinners were to be publicly denied the sacrament unless their repentance was publicly known.[1] While thus throughout Latin Christendom the injunction of the council of Trent was virtually ignored, S. Carlo Borromeo appears to have been the only prelate who made a vigorous effort to enforce it. In his first provincial council of Milan, in 1565, he ordered all priests to impose public penance on public sinners, and warned them that only bishops could commute it into private. This attempt was apparently fruitless, for in 1573 he ordered the bishops to labor zealously to bring it into use, and he even sought to restore the long-forgotten ceremony of solemn penance. Undiscouraged by the stubbornness of a hardened generation, in his manual of instructions for confessors, he specifies that public penance is to be imposed on public sinners, and that no commutation of it is to be allowed without his express consent.[2]

It was all in vain. About the middle of the seventeenth century Father Morin informs us that some traces of it were still to be found in a few dioceses, where it was inflicted occasionally on peasants, especially for the overlying of children.[3] Antoine Arnauld, in his rigorous zeal, desired to return to the ancient practice of the Church which required it for all mortal sins, while his contemporary Marchant held it to be a mortal sin to confess and receive absolution publicly without necessity.[4] Soon afterwards Juenin sorrowfully admits

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Melun in 1579, and at the councils of Rouen in 1581 and of Aix in 1585. Of these the first is not accessible to me, and I can find nothing of the kind in the two latter.

[1] C. Bisuntin. ann. 1571, De Pœnitentia; C. Brixiense ann. 1603, De Confessione cap. 8 (Hartzheim VIII. 159, 545).

[2] C. Mediolan. I. ann. 1565, P. II. cap. 5; C. Mediolan. III. ann. 1573, cap. 8 (Harduin. X. 665, 776).—S. Car. Borrom. Instruct. Confessar. pp. 69, 78, 81 (Ed. 1676).

[3] Morin. de Pœnit. Lib. V. cap. XXV. § 13.

[4] Ant. Arnauld, Traité de la fréquente Communion, P. I. ch. XX. XXI.—Marchant Tribunal. Animar. Tom. I. Tract. I. Tit. 1, Q. 14. Concl. 2.

Arnauld in his preface states that public penance for mortal sins was practised with great zeal and satisfaction in a parish within twenty-five leagues of Paris. This was S. Maurice, in the diocese of Sens, under Du Hamel, a disciple of Saint-Cyran (Reusch, Der Index der verbotenen Bücher, II. 454).

that almost all priests yielded to the opposition of those who deserved the discipline, and his arguments for its enforcement only emphasize the hopelessness of the cause. The immunity of ecclesiastics from this public humiliation, even though their offences were graver than those of laymen, furnished an unanswerable argument against it, and there was little use in urging the edifying examples of Theodosius the Great and Henry II. So completely disused was it that theologians disputed whether it belonged to the *forum internum* or *externum*, and some even doubt whether it can be imposed in the confessional for public sins.[1] All this is scarce to be wondered at, when the Tridentine Catechism treats it in a half-hearted way; if the penitent objects, he is not to be readily yielded to, but should be persuaded to undergo cheerfully what is so beneficial to himself and to others.[2]

For clericide by a layman, however, if the crime was notorious, public penance in the medieval form continued for some time longer, though in a shape which well might lead the doctors to doubt as to which forum it belonged. The culprit, as we are told in the middle of the seventeenth century, clad only in his drawers, with a halter around his neck and a rod in his hand, is to be led to five churches of the vicinage, when the popular assemblage is greatest, where he is to be beaten by the clergy while singing a penitential psalm. All clerics, from the highest to the lowest, are to join in the scourging, because he has offended the whole body, and must submit to stripes from them all[3]—an idea which carefully excludes all conception of sacramental repentance. Even as lately as 1745, in Pomerania, the overlying of children was still punished by public penance. The rural dean could in such cases absolve *in foro conscientiæ*, but the

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[1] Juenin de Sacramentis Dist. VI. Q. vi. cap. 8, Art. 2, §§ 1, 2.—Liguori Theol. Moral. Lib. VI. n. 512.

Some theologians of the period, however, held that public penance ought to be imposed for public sins.—Clericati de Pœnit. Decis. XXXIV. n. 15; La Croix Theol. Moral. Lib. VI. P. ii. n. 1229.

[2] Catech. Trident. De Pœnit. cap. xiii. "Quamvis eam pœnitens refugiat ac deprecetur non erit facile audiendus: Verum persuadere eum oportebit ut quæ tum sibi tum aliis salutaria futura sunt libenti ac alacri animo excipiat."

[3] Marc. Paul. Leonis Praxis ad Litt. Maj. Pœnitentiarii, pp. 277, 283 (Mediolan. 1665). But we are told (pp. 285–6) that for proper cause this may be commuted to private penance.

culprit was required to stand as a penitent at the church-door through the whole of Lent, and was then on Holy Thursday absolved by the bishop or his deputy.[1] As a general practice the theoretical position of the Church has not changed; the Roman Ritual states that public satisfaction is required of those who have caused public scandal, and this is nominally held to be still in force.[2] The custom is obsolete, however. As long ago as 1702, Chiericato expresses his regret that those who lead scandalous lives cannot be subjected to it;[3] even in Milan, where the ordinances of S. Carlo Borromeo remained on the statute-book, a writer in the middle of the last century informs us that they had fallen wholly into disuse,[4] and at present the only survival of public penance is in the case of those who have left the Church and then sought readmission, when a pnblic confession and abjuration of their errors is still considered indispensable.[5]

As the object of the Reformation was to revert back as nearly as possible to the early Church, public penance, as a punishment and not as satisfaction, was naturally retained by the Reformers. Among the Lutherans public sins required public absolution, and public penance was inflicted on notorious offenders who sought reconciliation with the Church.[6] In the middle of the last century, however, Böhmer describes it as nearly disused, even in cases of adultery and fornication, to which it had become confined, and he argues against it, especially in view of its occasional commutation for money.[7] Among the French Calvinists it was employed in the case of public sins and of hardened offenders, who, after excommunication, had

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[1] Synod. Culmens. ann. 1745, cap. 15 (Hartzheim X. 529). In this the public penance is evidently in the external forum.

[2] Rituale Romanum, Tit. III. cap. 1.—S. Alph. de Ligorio Praxis Confessar. n. 13.—Reuter Neoconfessarius instructus n. 18.—Th. ex Charmes Theol. Univ. Dissert. V. cap. 5, Q. 2, Concl. 2.—Synod. Neogranatens. I. ann. 1868, Tit. IV. cap. 8 (Coll. Lacens. VI. 513).

[3] Clericati de Pœnit. Decis. XVIII. n. 32.

[4] Mazuchelli Tract. de Casibus Reservatis in Diœc. Mediolan. Cas. XV. (Mediolan, 1757).

[5] Binterim, Denkwürdigkeiten, Bd. IV. Th. II. S. 215.—Synod. Sutchuens. ann. 1803, cap. vi. § 5 (Coll. Lacens. VI. 607).

[6] Steitz, Die Privatbeichte u. Privatabsolution der Lutherischen Kirche, pp. 54–61, 130.

[7] J. H. Böhmer Jur. Eccles. Protestant. Lib. v. Tit. xxxviii. §§ 67–8.

repented and sought to be received back into the Church,[1] and the proceedings of the earlier synods show that its use was not infrequent. In Scotland, the tireless zeal of the Kirk-Sessions rendered it a veritable infliction, in the habitual use of the stool of repentance on which culprits, clad in the "harden-gown" or "linnens," were perched, facing the congregation, while the minister drew from their shame fruitful lessons for the edification of the people. In this shape it lasted until the beginning of the eighteenth century.[2]

The voluntary assumption of public penance during the Middle Ages is a subject worthy of more detailed treatment than its connection with our theme will permit here. Irrepressible and disorderly zeal at times produced epidemics of public mortification of the flesh, as when, in 1259, Italy and parts of Germany were filled with wandering bands of Flagellants. In 1349, the ravages of the Black Death caused a renewal of the excitement of more durable and formidable character. The Flagellants then taught that their discipline, if continued for thirty-three days and a half, constituted a baptism of blood which washed the soul clean of all sins and rendered the sacraments of the Church superfluous. This was a dangerous heresy, and was condemned as such by Clement VI. in October, 1349, but in spite of this the belief continued to exist stubbornly and manifested itself in occasional outbreaks until the first quarter of the fifteenth century. In 1449, pestilence and famine in Italy caused a fresh manifestation of penitential zeal, uncontaminated with heresy, and the streets of the cities were filled with bands of penitents disciplining themselves. A more organized development of the same tendency is seen in the guilds of "Verberati," instituted in Genoa in 1306, which marched through the streets scourging themselves, with bishops and dignitaries at their head. In 1399, we are told, there were seventeen of these fraternities, which could turn out fourteen hundred members in procession.[3]

Survivals of these customs exist even to the present day. A newspaper correspondent describes the observances at Grosseto, in Tuscany, on Good Friday, when a procession takes place of some thirty

[1] Discipline, Ch. v. can. 20, 22, 25 (Quick's Synodicon in Gallia Reformata I. xxxiv.).

[2] Rogers, Scotland Social and Domestic, pp. 353, 364–66.

[3] Georgii Stellæ Annal. Genuenses ann. 1399 (Muratori S. R. I. XVII. 1174).

youths, their faces covered with linen masks, each armed with two scourges, one of fine wires, the other with knots in which sharp points are firmly twisted. With these, at command of a leader, they beat themselves on the bare shoulders till the blood flows freely, the exercise lasting for some hours and winding up at the church. Still more extravagant are the performances, in New Mexico and Colorado, of associations known as *Hermanos Penitentes* or *La Santa Hermandad*, who represent the *Via Crucis* in every detail, even to the Crucifixion, their flagellations being rendered more cruel by effective use of the terrible prickly pear. Formerly these associations numbered their members by the thousand, but Archbishop Lamy discouraged them, and even endeavored to have them prohibited by Pius IX. That pope died without rendering a decision, and Leo XIII. refused the request, but called attention to the bull of Clement VI., in 1349, prohibiting public processions of flagellation. This caused considerable diminution of their numbers, and a denunciation of their practices by Archbishop Salpointe has led to the discontinuance of the public exhibitions on Good Friday, the rites being now carried on secretly in the mountains.

The origin of the private penance imposed by the Church, which supplanted public penance and is now universal, is exceedingly obscure. Modern apologists, who are necessarily forced to prove that what exists has existed from the earliest times, vainly endeavor to find warrant for it among the Fathers. Even St. Augustin has been pressed into service as a witness—St. Augustin, whose theory of the power of the keys was that pardon is obtained for the sinner by the prayers of the Church, which of course could only be offered for one whose penitence was public.[1] This view of

[1] Thus St. Augustin, speaking of the most secret of sins, which could only be known through the admission of the sinner, says "Agite pœnitentiam qualis agitur in Ecclesia ut oret pro vobis Ecclesia. Nemo sibi dicat, Occulte ago, apud Deum ago: novit Deus qui mihi ignoscat, quia in corde meo ago," and he proceeds to illustrate his advice by the public penance of Theodosius the Great.—Serm. CCCXCII. cap. 3.

Palmieri (Tract. de Pœnit. p. 395) in the dearth of other evidence of private penance, cites a passage from another sermon, which has nothing to do with the question, for St. Augustin is there (Serm. LXXXII. cap. 7, 8) discoursing on the text of Matthew XVIII. 15, "rebuke him between thee and him alone," and arguing that for sins not publicly known there should not be public re-

the efficacy of the intercession of the congregation for the public penitent continued after private penance had crept into use. One of the earliest references to the latter occurs in a sermon attributed to St. Cæsarius of Arles, which, if correctly ascribable to him, shows that by the middle of the sixth century the practice of private penance had been introduced; but, though the sinner could exercise his choice between it and public penance, the latter was regarded as by far the more efficient, inasmuch as it secured the benefit of the prayers of the people. Private penance thus was permitted, but was regarded as of inferior worth.[1] Indeed, another sermon attributed to St. Cæsarius assumes that for mortal sins public penance is indispensable, as the edification of the congregation is necessary for their redemption.[2] In any case, there was nothing sacramental about penance, for it need not be prescribed by priest or bishop; if self-inflicted it was equally efficacious, for God will not judge him who judges himself.[3]

The use of private penance at first spread slowly and irregularly. In Spain, in the first quarter of the seventh century, St. Isidor of Seville seems to know only the penance of sack-cloth and ashes, which is public penance.[4] Yet the tendency was growing irresistible to evade the humiliation of public appearance as a penitent, and the Church, in its desire to encourage the practice of confession, was willing to make concessions. Thus Gregory the Great tells us that there are powerful men in the Church who will not endure open reproof,

bukes. The only deduction to be drawn from it is that there were zealous pastors who were wont to inflict reprimands in their sermons for any sins of which they chanced to have cognizance, a custom which prevented sinners from seeking advice and consolation, and which St. Augustin desired to repress. The evidence commonly adduced from St. Ambrose and St. Chrysostom has already been described (I. p. 180).

[1] S. Augustin. Serm. Append. Serm. CCLXI. n. 1 (Migne, XXXIX. 2227). "Et ille quidem qui pœnitentiam publice accepit poterat eam secretius agere: sed credo considerans multitudinem peccatorum suorum videt se contra tam gravia mala solum non posse sufficere: ideo adjutorium totius populi cupit expetere."

[2] Ibid. Serm. CIV. n. 7 (p. 1948). "In luctu et in tristitia multo tempore permanentes et pœnitentiam etiam publice agentes: quia justum est ut qui multorum destructione se perdiderit cum multorum ædificatione se redimat."

[3] S. Cæsar. Arelatens. Homil. XVII.

[4] S. Isidori Hispalens. de Eccles. Officiis Lib. II. cap. xvii. n. 4, 5; Epist. I. n. 9, 10 (Gratian. cap. 1 Dist. XXV.).

and their honor may properly be shielded in the case of secret sins, but when these are notorious they must be publicly rebuked[1]—apparently for the commonalty there was as yet no such consideration—and this time-serving policy could not be limited to rebuke, but spread necessarily to the injunction of penance. This was especially the case in dealing with the untamed natures of the Barbarians, whose laws prescribed only pecuniary, non-personal, punishments; with them the Church was obliged to adapt itself to their characteristics. It was evidently impossible to persuade them to endure the disgrace and privations of public penance, to throw aside their weapons and to forego marriage and war; the subject populations might submit to these degradations and disabilities, but not the free Teuton, save in exceptional cases, and it was necessary to humor his idiosyncrasies. He might be induced occasionally to confess his sins privately and to accept a secret penance, the rigor of which, as we shall see hereafter, was softened by a system of composition and redemption, but this was all. The practice of private penance accordingly spread insensibly, without such distinct recognition on the part of the authorities as enables us to trace its development further than we have already done in treating of auricular confession, with which it was inseparably connected.

The growth of the new system is represented in the Penitentials, the use of which gradually spread from the seventh century onward until it became universal in the ninth and tenth. The bishops retained the right of imposing public penance and granting reconciliation; as this declined under the aversion of the Barbarians to submit to it, and as the Church earnestly inculcated the practice of private confession to the priest, the latter became in time naturally invested with the right of prescribing private penance, and its employment grew more and more habitual. Yet though for the sake of convenience we may call it private, and though it lacked the solemnity of ejection from the church and readmission, which was the symbolical feature of public penance, it was as yet by no means secret as in modern times, and rather resembled what the schoolmen termed public penance, when the old public penance became known as solemn. The Penitentials are full of prescriptions which could in no way be kept secret—pilgrimages, prolonged suspension from com-

[1] Gregor. PP. I. Moral. Lib. XIII. cap. 5.

munion, composition with injured parties, entrance into monasteries, and, for ecclesiastics, suspension from functions and even degradation. When we come to consider the Penitentials we shall see that they were in some sort rude bodies of law, partly secular and partly spiritual, the resource of men seeking to supplement the crude Barbarian codes and to reduce semi-barbarous folk to a recognition of morality and order, and bearing but a remote relation to the modern system of sacramental confession and penance.

In the Carlovingian reconstruction and decadence the Church found its opportunity to put forward and partly to establish its claims to enforce its mandates, and we begin to discern the germs from which the medieval system sprang. The effort to revive the practice of public penance, as we have seen, was a difficult one and met with only partial success, and the compromise was proposed that it should be reserved strictly for public and notorious offences, while for secret sins, known only through voluntary confession, private penance should suffice. Although authority for this was manufactured in the False Decretals (p. 75), that the rule was a novelty is evident from its being now enunciated for the first time, and from the necessity which Rodolph of Bourges felt of explaining it, which he endeavors to do by pointing out that weak brethren would be scandalized by seeing the punishment of sinners whose sins were unknown.[1]

The Church thus accepted private penance as the equivalent of the public penance which it found itself unable to enforce as a general custom; the two were, for the most part, placed on precisely the same footing, though neither was as yet sacramental, and they were to a considerable extent interchangeable until the distinction between public and private sins had crystallized and become universally recognized.[2] It was a period of transition, however, and the old

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[1] Rodolph. Bituricens. Capit. cap. xliv. Cf. Pœnit. Ps. Theodori cap. xli. § 1 (Wasserschleben, p. 610).

[2] In the effort to elude the unsacramental character of the old reconciliation, Binterim (Denkwürdigkeiten IV. III. 6) argues that public penance at this period lost its sacramental function while private penance retained it, and, with the curious intellectual strabismus which distinguishes these apologetic efforts, he quotes from Benedict the Levite a passage which proves the contrary—that both were regarded as precisely similar, and that reconciliation, not absolution, is the object to be attained by either. "Si vero occulte et

customs did not give way to the new without considerable vacillation in practice. There is a formula of this period, used in the diocese of Constance, which shows that public penance alone was recognized as efficient, and that private penance was merely a temporary substitute; if the sinner, it says, be unable through any cause to present himself on Ash Wednesday, or if he is stupid, or timid, or ashamed, or borne down by a multitude of sins, and cannot be persuaded to come forward, the priest, after a secret confession, can enjoin on him private penance, until the divine monition, and the example of the fathers, and the instructions of the priest, may induce him to seek the bosom of Mother Church by reconciliation.[1] The bishops, moreover, did not abandon the control of private sins to the priests without a struggle. A decretal was forged and attributed to Pope Eutychianus (275–283), which declares that the episcopal command is necessary before priests can reconcile sinners for secret sins, except on the death-bed, when they can absolve them, and the preservation of this in the collections of canons up to the middle of the twelfth century shows how loth were the bishops to abandon their ancient prerogatives.[2] On the other hand, a custom sprang up

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sponte confessus fuerit, occulte faciat. Et si publice et manifeste convictus aut confessus fuerit, publice ac manifeste fiat, et publice coram ecclesia juxta canonicos pœnitet gradus. Post peractam vero secundum canonicam institutionem pœnitentiam, occulte vel manifeste, canonice reconcilietur et manus ei cum orationibus quæ in Sacramentario ad reconciliandum pœnitentem continentur imponatur."—Capitul. Lib. v. cap. 116.

He also cites Concil. Arelatens. ann. 813, cap. 26 (Harduin. IV. 1006), which has no bearing on the point in question. In fact, all the schoolmen and manuals of the thirteenth and fourteenth centuries treat public and private and solemn penance as of precisely the same character.

[1] Pez, Thesaur. Anecd. II. ii. 611. Another Ordo, probably of the eighth or ninth century, instructs the priest, if the penitent is stupid, to reconcile him at once: if he is intelligent, to prescribe penance, after the performance of which he is to return for reconciliation.—Morin de Pœnit. Append. p. 19.

[2] Ut presbyteri de occultis peccatis jussione episcopi pœnitentes reconcilient et sicut supra præmisimus infirmantes absolvant et communicent.—Burchardi Decr xviii. 16.—Ivon Decr. xv. 38.—Gratian. Cap. 4 Caus. xxvi. Q. vi.

We see here a reminiscence of the old rule, that the dying penitent could receive the viaticum without being reconciled in case of his recovery. The word "absolution" evidently here means absolution from excommunication and a ceremony inferior to reconciliation. Sacramental absolution had not yet been invented.

which marks the transition state of the matter and the interchangeable character of public and private penance. The priest was instructed to summon all sinners to come forward and confess on Ash Wednesday; he was then to urge them to return on Holy Thursday for reconciliation, but if they were unwilling or pleaded absence or other engagements, he could impose on them lenten or annual penance and reconcile them on the spot, or in his absence a deacon could officiate and administer communion to them.[1]

When the option was virtually thus offered to the sinner between public and private penance the number who refused to undergo humiliation before the people naturally increased; the priests were nothing loth, for it enabled them to assume episcopal functions, in addition to the attraction of the penitential "alms," for the rule became established that solemn and public penance belonged to the cathedral and private penance to the parish church.[2] Under this double impulsion from priest and penitent the bishop was unable to hold his own, and the function of public penance and reconciliation declined. The bishop abandoned to the priest the mass of secret sins, save such of the more heinous as he might reserve, but he maintained his claim on public and scandalous ones, which he required to be brought to him for public penance, and thus gradually became recognized the distinction that notorious crimes required public penance and reconciliation, while secret ones revealed in auricular confession could be treated with private penance. The development of this principle was slow and irregular, for there were no general rules as yet and no central power which could enforce them. The local churches still enjoyed independence; each diocese or province was a law unto itself, and regulated all such matters at its will. This is seen in the varying legislation of the local synods, and even as late as the twelfth century, Peter the Venerable, in controverting the Petrobrusian heresy of denying the efficacy of suffrages for the dead, tells us that almost every church had its own customs of the most diverse character.[3] Thus, as we have seen in the tenth century, Atto

[1] Ps.-Alcuin. Lib. de Divinis Officiis cap. 13.—Morin. de Pœnit. Append. p. 55.

[2] Bernardi Papiensis Summæ Decretalium Lib. III. Tit. XXV. § 2.

[3] Petri Venerab. Tract. contra Petrobrusianos (Migne, CLXXXIX. 836).—"Sunt equidem innumerabiles et diversissimæ diversarum ecclesiarum ad unam

of Vercelli permits in his diocese nothing but public penance, which he keeps rigidly under his own control, while his contemporary Ratherius of Verona, tells his priests that they are to invite their people to confession on Ash Wednesday; for secret sins they can impose penance, not at their own discretion, but according to the Penitentials, while public sinners are to be brought to him; there is nothing said about the priest reconciling either class, but Ratherius seems to have reserved this function to himself, in the warning which he gives them not to allow themselves to be bribed to bring him for reconciliation unworthy penitents with a certificate of their due performance of penance.[1]

Thus slowly and irregularly the practice of private penance for secret sins established itself, and the bishops gradually abandoned it to the priests, though even as late as the close of the eleventh century some Norman canons forbid priests from imposing it save by order of their bishops.[2] It was self-evident, indeed, that if auricular confession was to become general, the penitent must be attracted by secret penance that would not advertise his sins to others, and must not be deterred by the rigor and publicity and humiliation of the time-honored usage, nor did it require much casuistry to prove that if this secret penance became trivial, the evil would be neutralized by the extension of the confessional.

How rapidly under this influence the confessor assumed discretionary power, and how attractive was leniency, are seen in the practice related of St. Gerald, the founder of the Abbey of Grandselve. By his preaching and exhortations, we are told, he drew many to repentance and confession. Crowds came to him with the burden of their sins, when the good saint would impose on them as penance simply a fast on Friday and abstinence from flesh on Saturday.[3] Sometimes, indeed, this discretion led to undue rigor, as in the case of St. Dominicus Loricatus, who, after passing the Lent of St. Martin (the six weeks before Christmas) in prayer and fasting, went on Christmas eve to confess to a neighboring abbot: a short psalm would

Catholicam pertinentium consuetudines, ut pene tanta sit varietas usuum quanta multiplicitas ecclesiarum."

[1] Attonis Vercellens. Capitulare, cap. 90, 96.—Ratherii Veronens. Synodica, cap. 8, 9, 10, 15.

[2] Post Concil. Rotomagens. ann. 1074, cap. 8 (Harduin. VI. I. 1520).

[3] Vit. S. Geraldi Silvæ-Majoris cap. 24 (Migne, CXLVII. 1040).

have been ample penance, but the abbot being young and inexperienced prescribed thirty psalters, and the saint, without a word of remonstrance, shut himself up in his hermitage until he had accomplished the task.[1] How slight was the wisdom with which this arbitrary penance was administered was seen by the habits of routine engendered. If St. Gerald gave all his penitents a trifling fast, the blessed Bertold, Abbot of Garz, always inflicted scourging, to which every penitent who came to him was subjected.[2]

Yet, with all this, private penance had by no means as yet superseded the public rites even for secret sins. An Ash Wednesday sermon of St. Ivo of Chartres is addressed to those expelled from the church in sack-cloth and ashes, who yet have come forward voluntarily to assume public penance, and whom he exhorts to make full confession, for by it all sins are remitted.[3] Evidently this was still considered more efficacious than private penance, for although Honorius of Autun describes it being made a matter of jest, and accepts the distinction that it is reserved for public sins,[4] there were many who still adhered to the ancient teachings. The Pseudo-Augustin feels it necessary to prove the sufficiency of private penance for secret sins in a manner to indicate that it was a point still debated, and he agrees with St. Cæsarius of Arles that it is less efficient than the public rite; in the one case God is placated by confession to the priest; for the remission of public sins the merits of the Church must be called upon; the penance must be public in order that God may be moved by the intercessory tears of the people; the Church, which has been offended, must be led to pray for the sinner, so that

[1] S. Petri Damiani Vit. S. Dom. Loricati cap. 12.—The saint earned his title of *Loricatus* by a self-inflicted penance which shows how little the received prescriptions of the Church satisfied the ardor of souls burning to earn salvation by self-immolation. He wore a shirt of mail next the skin, but even this grew too slight a mortification, and he had a series of iron bands fitted to trunk and limbs till he could scarcely move. He kept this a secret till the stench of his festering flesh attracted attention, and he was relieved of it miraculously on the feast of Simon and Jude, when the two heaviest bands, stretching from the shoulders to the thighs, spontaneously broke and the rest softened and spread. St. Peter Damiani speaks of this as having just happened when he wrote.

[2] Martene de antiq. Ecclesiæ Ritibus Lib. I. Cap. vi. Art. 4, n. 17.

[3] S. Ivonis Carnotens. Serm. XIII.

[4] Honorii Augustodun. Speculum Ecclesiæ: De Nativitate Domini.

God may be induced to pardon him.[1] Evidently as yet there was nothing sacramental in either rite. Even in the middle of the twelfth century Cardinal Pullus admits that the opinion was still maintained by some that both for private and public sins the public penance administered by the bishop is necessary, though in his opinion the secret sinner needs only to have recourse to private penance enjoined by the priest.[2]

It is unnecessary to pursue the subject further here. We have seen how, with the spread of auricular confession and the development of the power of the keys, the change which we have thus far followed continued to spread, how the practice of public confession gradually became obsolete, even in the religious orders, and was replaced with private penance. When the function of granting absolution was conceded to the priest he could not be denied that of imposing penance, and this penance was necessarily secret. The power which had, for so many centuries, been confined to the bishop slipped from his hands and was transferred to the priest. Occupied, for the most part, in the temporal administration of their sees, which had become wealthy principalities, the bishops finally abandoned the struggle and handed over the souls of their subjects to their subordinates, only reserving the right to except such of the more heinous offences as they might deem fitting.

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[1] Ps. Augustin. de vera et falsa Pœnitentia cap. xi.

[2] R. Pulli Sentt. Lib. VI. cap. 57.

Much stress has been laid by modern apologists (Palmieri Tract. de Pœnit. p. 399) on a decretal of Alexander III. to the Bishop of Exeter (Post Conc. Lateran. P. XXXV. cap. 2) concerning a priest whose ordination had been simoniacal: if the matter is not notorious he must be persuaded, if possible, by the offer of a benefice without cure of souls, to cease performance of his functions; he is not to be coerced, for this would not be safe, but is to have some fitting secret penance enjoined. The case has nothing to do with sacramental penance; it is only an instance of the usual Church policy of avoiding scandal when dealing with the sins of clerics, and the little weight attached to the decision is shown by its exclusion from the decretals of Gregory IX. Moreover, on a supreme occasion, when Alexander was ordering (Ibidem cap. 1) the suspension of all ecclesiastics concerned, directly or indirectly, by counsel or otherwise, in the murder of Thomas Becket, he did not stop to draw a distinction between those whose sin was notorious and those in whom it was secret.

CHAPTER XVII.

THE PENITENTIAL SYSTEM.

In addition to the foregoing there are many details remaining to be considered before we can form a clear conception of the theory and practice of the Church. For this we shall have to return to the source of medieval penance in the Penitentials.

We have seen how, in the third and fourth centuries, a kind of spiritual criminal jurisdiction arose, with local codes expressed in the canons of councils like those of Elvira, Ancyra and Nicæa, and compilations such as the Apostolic Canons, the *Statuta Antiqua* of the African Church, and the canonical epistles of St. Gregory of Nyssa and St. Basil the Great. Succeeding councils in the West continued the work, as occasion required, and local customs doubtless arose, which either were not reduced to systematic form or have not reached us. Thus there was a considerable body of disciplinary law gradually forming itself in disconnected fragments, often discordant in its provisions and nowhere reduced to a consistent whole or possessed of any authority beyond the usage of the several dioceses or provinces. As Christianity spread over pagan lands, the need was naturally experienced by the missionary priests of some compilations that should supply deficiencies in memory or experience, and should serve as guides in the treatment of their penitents. This was not felt in Gaul, where the existing ecclesiastical organization was not overthrown by the Franks, and councils continued to be held and to adopt canons with more or less regularity, nor in Spain, which, after the conversion of the Arians, was supplied with the collection of the canons of the earlier councils passing under the name of St. Isidor, supplemented by the series of national assemblies held at Toledo. Ireland, converted in the fifth century, and Britain seem to be the home of the earliest Penitentials, strictly so called. These were carried to the Continent by St. Columbanus and his fellow-missionaries, where they gave rise to various derivatives, varying more or less from the originals. In England the conversion

of the Saxons led in time to similar compilations. After the death of Theodore of Canterbury, in 690, his disciples collected his judgments and decisions, forming the most celebrated Penitential of all, which long remained an almost universal authority—indeed, so great was its reputation that in subsequent ages its authorship was popularly ascribed to Pope Theodore (642–649)[1]—while scarcely less prominent were the compilations attributed to the Venerable Bede and to Egbert of York. The convenience of these manuals was so apparent that they spread and multiplied everywhere, modified, rearranged, enlarged, abridged and adapted to the needs of a locality or the whims of a compiler.

The result of this was an inextricable confusion and contradiction of penalties, which may be estimated from a comparison of the provisions for the repression of perjury as set forth in two classes of these manuals. Those of Irish derivation treat it as a crime scarce admitting of pardon. Vinniaus prescribes seven years' penance and the rest of life to be passed in good works, never to swear, and to set free a slave or to give the value of one to the poor. The code known by the name of Columbanus, which contains Frankish elements, is even more severe. Perjury committed through greed can only be pardoned by the offender giving his whole property to the poor and entering a monastery for the rest of his days; if committed through fear of death he must do penance for seven years, of which three are to be spent unarmed in exile, he must set free a slave, give much in alms, and at the end of the seventh year he can be admitted to communion.[2] On the other hand, the Penitentials of the Theodore group are much less severe, and treat the externals of the perjured oath as its most important feature. A perjury committed in a church is penanced with eleven years, while, if coerced through necessity, three *quarantines* suffice; if it has been taken on the hand of a man it is nothing, if on the hand of an ecclesiastic or on an altar or consecrated cross, three years' penance is prescribed, if on an uncon-

[1] In the twelfth century it is the only act ascribed to Pope Theodore by John of Voltorno (Chron. Vulturense, *ap.* Muratori, S. R. I. I. II. 345). In the fourteenth century Ptolemy of Lucca repeats the story (Ptol. Lucens. H. E. Lib. XII. cap. 12, *ap.* Muratori, XI. 936).

[2] Pœnit. Vinniai § 22; Pœnitent. Columbani cap. 20 (Wasserschleben, pp. 112, 358.—Migne, LXXX. 227).

secrated cross, one year.[1] Other Penitentials, again, endeavored to combine these variations by superimposing the one on the other without an attempt to harmonize them, producing a result wholly unintelligible, and perhaps even heightening the confusion by adding from other sources additional provisions, equally incompatible.[2] As if to render the matter more embroiled, the forgers of the False Decretals produced one as from Pope Eutychianus, in which he complains of the slender penance assigned to perjury, orders it to be treated like adultery, fornication and murder, and that any one who is deterred by this severity from coming to confession shall be excommunicated and strictly cut off from human intercourse.[3]

In view of this confusion it is no wonder that when Charlemagne sought to systematize the administration of his vast dominions an effort was made to eliminate or reduce to order these unauthorized and contradictory codes. In 813 the council of Tours suggests that when the bishops are assembled in the imperial palace they shall select the best of the ancient Penitentials as the one to be followed. The council of Châlons was more emphatic in denouncing them all as erroneous and devoid of authority and mere snares for souls; priests should follow the ancient canons, the prescriptions of Scripture and the customs of the Church.[4] The imperial Capitulary, however, which embodied Charlemagne's decision on the recommendations of these councils, took no steps to remedy the trouble, and in 829 the council of Paris spoke out still more boldly. It was through the ignorance and negligence of the priests that these man-

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[1] Pœnitent. Theodori I. vi. §§ 1–5; Canones Gregorii, 115, 188 (Wasserschleben, pp. 173, 180, 190). Cf. Pœnit. Ps. Gregorii III. cap. vii. (Ibid. p. 539).

This distinction between oaths on crosses, consecrated and unconsecrated, was adopted into the canon law.—Gratian, cap. 2 Caus. XXII. Q. 5.—Astesani Summæ P. I. Lib. I. Tit. xviii.

[2] See Pœnit. Cummeani cap. v. §§ 1–11 (Wasserschleben, p. 447; Migne, LXXXVII. 988). See also the Can. Pœnitent. S. Gregor. II. (Migne, LXXXIX. 321).

[3] Eutychiani Decret. III. (Migne, V. 177). Theodulf of Orleans (Capitula, XXVI.) gives this without assigning any authority, but Burchard (Decr. XII. 14), Ivo (Decr. XII. 71) and Gratian (Cap. 17 Caus. XII. Q. 1) credit it to Eutychianus.

[4] C. Turonens. III. ann. 813, cap. 22; C. Cabillonens. II. ann. 813, cap. 38 (Harduin. IV. 1026, 1038).

uals, destitute of all authority and in contradiction to the canons of the Church, had come into use to the misleading of souls, and it was resolved that every bishop in his diocese should collect and burn them.[1] Meanwhile Ebbo, Archbishop of Reims, had sought to devise a remedy by calling in Halitgar of Cambrai to frame a code to supplant the unauthorized and conflicting compilations, which misled both priest and penitent.[2] Halitgar responded with a work in which he did not attempt to construct a regular tariff of penance, but exhorted the sinner to repentance and amendment and reparation of wrongs and good works, through which to win the mercy of God, all of which must vary with the individual and his depth of contrition, and be determined by the discretion of the bishop; all the writer can do is to prescribe in general terms the course of life best fitted for the cure of the several sins.[3] To this admirable teaching, however, he appended a selection from the ancient canons of Elvira, Africa etc., and also a Penitential to which the authoritative name of Rome was attached, although it was of Frankish origin.

All this was in vain. The Penitentials continued to multiply and to be used in spite of occasional protests. In 866 the missionary bishops sent by Nicholas I. to Bulgaria carried with them a *judicium pœnitentiæ*, for which the converts had asked.[4] About the year 900 Regino of Pruhm, in his compilation, which became authoritative throughout the tenth century, embodies nearly the whole of the Penitential which passed under the name of Bede, and in the instructions which he gives for the examinations to be made by bishops in their visitations, there is a clause requiring them to see whether every priest has a Penitential—either the Roman, or Theodore's or Bede's—and whether he follows it in the imposition of penance.[5] That this was

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[1] C. Parisiens. ann. 829, Lib. I. cap. 32 (Ibid. p. 1317).

[2] Ebonis Epist. (Canisii et Basnage Thesaur. II. II. 87).—Gregor. PP. III. Excerptum de diversis Criminibus (Migne, LXXXIX. 587).

[3] Halitgari de Pœnitentia Lib. I. (Canis. et Basnage II. II. 92–99).

In this Halitgar echoes the similar views expressed by Alcuin, *de Virtutibus et Vitiis* cap. 13.

[4] Nicholai PP. I. Responsa ad Consult. Bulgaror. cap. 75 (Migne, CIX. 1008).

[5] Reginon. de Discipl. Eccles. Lib. I. Inquisit. n. 95. Yet this was by no means universal. Shortly before, Riculfus of Soissons, in the list of books which he orders his priests to possess, does not include a Penitential (Constitt. cap. 6, *ap.* Harduin. VI. I. 415). The council of Trosley, also, held in 909 treats at great, length of the prevalent crimes and sins; it quotes frequently from the False

followed in many dioceses is seen from the instructions of Ulric of Augsburg and Ratherius of Verona to their priests that they must each of them have a Martyrology and a Penitential.[1] The larger and more systematic compilations of Burchard, Anselm of Lucca and Ivo of Chartres doubtless in some degree superseded the humbler Penitentials, but the latter were cheaper and more convenient, and still held their ground. Even Ivo gives a canon from a council of Mainz ordering all priests to have a collection of the kind,[2] and new ones continued to be made. Father Morin describes one in MS., compiled in the second quarter of the twelfth century, and in 1582 Antonio Agustino, Archbishop of Tarragona, printed another of about the same period, which contains canons from Theodore and Bede and the False Decretals.[3] Even as late as the fourteenth century Ptolemy of Lucca speaks of the Penitential of Theodore as commonly to be found in parish churches,[4] although by this time, as we shall see, its only use was to frighten penitents.

Crude and contradictory as were the Penitentials in many things, taken as a whole their influence cannot but have been salutary. They inculcated on the still barbarous populations lessons of charity and loving-kindness, of forgiveness of injuries and of helpfulness to the poor and the stranger as part of the discipline whereby the sinner could redeem his sins. Besides this, the very vagueness of the boundary between secular and spiritual matters enabled them to instil ideas of order and decency and cleanliness and hygiene among the rude inhabitants of central and northern Europe. They were not confined to the repression of violence and sexual immorality and the grosser offences, but treated as subjects for penance excesses in eating and drinking, the consumption of animals dying a natural death or of liquids contaminated by animals fallen into them; the promiscuous bathing of men and women was prohibited, and in many ways the

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Decretals and the Capitularies, but it prescribes no terms of penance and makes no reference to the Penitentials (Gousset, Actes etc. I. 562–610). There would seem to be a well-marked divergence in this matter between Gaul and Germany.

[1] S. Udalrici Augustani Sermo Synodalis (Migne, CXXX. 1076).—Ratherii Veronens. Synodica (Ibid. CXXXVI. 564).

[2] Ivon. Decr. xv. 111.

[3] Morin. de Pœnit. Lib. x. cap. 24.—Canones Pœnitentiales cum notis Antonii Augustini, Tarracone, 1582.

[4] Ptol. Lucens. H. E. Lib. xii. cap. 12 (Muratori S. R. I. XI. 936).

physical nature of man was sought to be subordinated to the moral and spiritual. It was no small matter that the uncultured barbarian should be taught that evil thoughts and desires were punishable as well as evil acts. Such were their tendencies, and though at the present day it is impossible to trace directly what civilizing influence they may have exercised on the peoples subjected to them, that they exercised influence is inferable from the stimulus which they lent to the development of sacerdotalism. This may possibly explain why the northern races, among which the Penitentials arose and were more largely used, were comparatively impervious to the anti-sacerdotal heresies which in the twelfth and thirteenth centuries flourished so vigorously in the south that at one time they seemed to threaten the very existence of Latin Christianity.

Although the Penitentials transmitted to the middle ages and to modern times in an unbroken line the penalties provided by the ancient councils and their successors, it is an error to assume, as is habitually done, that the penitence prescribed in them is of the same character as that subsequently administered in the confessional. Sacramental penance is voluntary, and its object is to procure remission from the pains of purgatory. The penance of the Penitentials was enforced and punitive, and its performance procured reconciliation with the Church and the intercessory prayers of the confessor. The essential distinction between them becomes clear when we consider the Penitentials as what they really were, codes of criminal law ancillary and supplementary to the crude and imperfect legislation of the Barbarians.

We have seen that the penance of the early Church was likewise punitive and deterrent. As Pope Siricius says, the penitent chastised his errors and served as an example to others.[1] Still, under the Empire, the Church was limited to spiritual inflictions, among which it included the disabilities based upon avoiding temptations and occasions of fresh sins; the Church was subject to the State and could not transgress the limits assigned to it. In the looser organizations of the Barbarians the distinction between the secular and the spiritual was scarce recognized; the Church availed itself of the

[1] Siricii Epist. I. cap. 5. "Et ipsi in se sua errata castigent et aliis exemplum tribuant."

opportunity to extend its jurisdiction and to employ remedies drawn from the secular law. How complete was the confusion between Church and State, between the *forum internum* and *externum*, and how entirely penance was regarded as a punishment, is seen in a provision of the ancient Irish canons which have been attributed to St. Patrick. Any one stealing from the king, bishop or scribe, or committing any offence against them, is to pay the price of seven slave-girls and to undergo seven years' penance.[1] Similarly in some old Welsh canons fines are provided rated at the price of male and female slaves.[2] Sometimes we find penance prescribed for purely secular crimes, as thirteen years for serving as a guide to Barbarians when there has been no slaughter, and life-long if blood has been shed; sometimes corporal punishment for purely spiritual offences, such as eating flesh in Lent, when the pillory is threatened for a man who gives meat to his slave, while the slave forfeits six solidi or pays with his hide.[3] In the Saxon Church, the bōt, or satisfaction for sin, was in some places a fine, which was equally divided between the bishop, the altar and the brotherhood, or between Christ and the king.[4] A canon largely copied from Theodore throughout the Penitentials down to the ninth century, shows how completely the spiritual and secular jurisdictions were confused, and how penance and punishment were convertible terms. It provides that the slayer of a monk or cleric shall be judged by the bishop and perform seven years' penance or abandon his arms and serve God, but if the victim is a priest or bishop the murderer shall

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[1] Canones Hibernens. (Wasserschleben, p. 141).

[2] Canones Wallici (Ibid. p. 124). Cf. Owen's Ancient Laws of Wales, II. 875, and Martene Thesaur. IV. 13.

[3] Sinod. Luci Victoriæ § 4 (Wasserschleben, p. 104).—Concil. Berghamstedens. cap. 14, 15 (Haddan and Stubbs, III. 235–6).—Ecclesiastical Institutes § 31 (Thorpe's Ancient Laws of England, II. 429).—Ecclesiastical Compensations or Bōts (Ibid. pp. 241–3).

[4] In the Law of the Northumbrian Priests (Thorpe, II. 291–99) the penance for all manner of offences, spiritual and secular, is simply a fine. In only one case is there any suggestion that God is to be placated as well as the Church, and this shows that the bōt had nothing to do with justification. "If a priest refuse baptism or shrift, let him make bōt for that with XII. ores, and above all earnestly pray for pardon to God" (Ibid. p. 293). Heathenish practices are paid for, one half to Christ and the other half to the king (p. 299). In one case excommunication is threatened, viz. for a priest forsaking a woman and taking another (p. 297).

be judged by the king.[1] Even more illustrative of the punitive character of penance is the condemnation, by the eleventh council of Toledo, in 675, of the practice of some bishops of putting sinners to death under pretext of correction, and its command that in future they shall not inflict penalties exceeding imprisonment and exile. These latter were quite sufficiently severe if we may believe the sixteenth council, in 693, which says that penitents thus imprisoned for the purgation of their sins sometimes committed suicide, and it provides that those who may survive the attempt shall be suspended from communion for two months.[2] It would be difficult to recognize any sacramental character about such penance, and yet exile long continued to be one of its resources. As late as 1089 Urban II. intercedes with William, Archbishop of Rouen, in favor of some penitents, asking that after a year's banishment they may be allowed to finish their penance at home, so that they may be able to support their families.[3] Among the Capitularies of Benedict the Levite is one which provides that spiritual incest shall be visited with death or perpetual pilgrimage.[4] So the Rule of Chrodegang prescribes for grave offences, such as homicide, theft, fornication, etc., the infliction of corporal punishment, followed by prison or exile during the pleasure of the bishop, who may also impose subsequent public penance, followed by reconciliation.[5] The council of Tribur, in 895, might well use the words castigation and penance as convertible terms.[6]

It is very evident that penances of this description were not likely to be undertaken or performed voluntarily, and when the spiritual authority failed to secure obedience there was no hesitation in invoking the aid of the secular power. Charlemagne, who utilized every resource attainable in reducing his turbulent subjects to order, re-

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[1] Pœnit. Theodori Lib. I. cap. iv. § 5.—Canones Gregorii cap. 108.—Confessionale Ps. Ecberti cap. 23.—Pœnit. XXXV. Capitulorum cap. 1 § 2.—Pœnit. Ps. Gregorii cap. 3.—Pœnit. Vallicellian. II. cap. 7 (Wasserschleben, pp. 188, 172, 310, 506, 538, 557).

[2] C. Toletan. XI. ann. 675, cap. 7; C. XVI. ann. 693, cap. 4.

[3] Löwenfeld Epistt. Pontiff. Roman. p. 64.

[4] Bened. Levitæ Capitul. Lib. VI. cap. 421. Cf. Lib. VII. cap. 356; Isaaci Lingonens. Capit. Tit. iv. cap. 11.

[5] Regulæ S. Chrodegangi cap. 30 (Migne, LXXXIX. 1071).

[6] C. Triburiens. ann. 895, cap. 54 (Harduin. VI. I. 455).

garded penance as one of the most useful factors in his policy, to be enforced as rigidly as the penalties of the secular courts. His counts and *missi dominici* were instructed to coerce to obedience all who refused to submit to the sentences of their bishops and perform the penances enjoined on them.[1] In another edict he orders that all guilty of the grosser crimes—homicide, theft and perjury—who have not performed or are not performing penance, shall appear before him; if they admit that they have accepted penance they shall state how they perform it and what priests have imposed it.[2] Again, he decrees that bishops shall have authority to deal with those guilty of incest, whose property shall be confiscated if they persist in their sin.[3] Louis le Débonnaire adopted the same policy. The synod of Thionville, in 821, enacted a series of provisions for the protection of the clergy, which shows how completely secularized was the penance of the period. Injuries inflicted on them were punished by fines to the bishop, ranging from 300 to 1800 *solidi*, combined with penance varying from five to twelve *quarantines*, or, in case death had ensued, from five to twelve years. Louis, in confirming this, speaks of it as *pœnitentia canonica*, and enforces it by threatening confiscation for disobedience, to be followed by exile until the offender submits.[4]

In the awful anarchy which accompanied the dissolution of the Carlovingian Empire, the Church and the State leaned upon each other in the desperate effort to maintain their authority, and the demarcation between secular and spiritual action became almost obliterated. At the synod of Pavia, in 855, when the Emperor Louis II. reproved the bishops for their remissness in the duty of preaching, the reply was that the rich laity had oratories of their own and never came to the churches; if they would do so they could be ad-

[1] Capit. Carol. Mag. ann. 802, cap. 32, 37, 38 (Baluze I. 265–66).

[2] Capit. Carol. Mag. incerti anni, cap. 11 (Hartzheim I. 425).

[3] Capit. Carol. Mag. incerti anni, cap. 5 (Martene Ampl. Collect. VII. 6). Marriage within the prohibited degrees, technically known as incest, was a difficult subject to deal with. As the secular authority broke down the effort was made to enforce the rules by strict segregation of the offender, who was urged to obtain pardon by priestly prayers, the performance of good works, liberal almsgiving and the imposition of hands.—Bened. Levitæ Capitul. Lib. VII. cap. 433; Isaaci Lingonens. Capit. Tit. iv. cap. 14; Gratian. cap. 3 Caus. XXXV. Q. viii. See also C. Mogunt. ann. 847, cap. 30 (Harduin. V. 14).

[4] C. apud Theodonis Villam ann. 821 (Harduin. IV. 1238–40).

monished to redeem their sins by almsgiving. Moreover the bishops complained that they were unable to enforce public penance for public crimes, and that even the private penance enjoined by the priests was not performed; to remedy this they begged the aid of the secular power to enforce obedience, but the imperial rescript legalizing the proceedings of the synod is ominously silent on this point.[1] In Gaul the royal authority was so shattered that it clung desperately to the Church as its last resort, and penance became completely secularized in the effort to strengthen by spiritual sanctions the laws which could not be enforced. When, in 862, Baldwin the Forester of Flanders carried off Judith, the daughter of Charles le Chauve, and married her against his will, the king's resource was to have him excommunicated and to order his lieges to force him to perform penance.[2] Unable to suppress or punish the rapine of the retainers of his lawless nobles, he calls upon the bishops to impose penance on the offenders and to excommunicate their masters who fail to make them submit to it.[3] The bishops were thus in some sort made the conservators of the public peace, and Charles pledged the power of the State to the utmost to enforce their decisions and compel all trangressors of the laws to perform the penance enjoined on them.[4] The organization of public penance attempted by Hincmar of Reims (p. 76) was doubtless an effort to reduce this policy to a system. In 884 Carloman orders that all who are guilty of rapine shall pay a triple fine and the *bannum dominicum*, and in addition undergo such public penance as the bishop may determine, while the royal officials are instructed to lend them all aid and support in compelling obedience.[5] So completely had penance become a punishment and a resource of secular law that, in 873, the expression *pœnitentiam facere* is used in instructions concerning the treatment of robbers by the counts, where there is no allusion to the intervention of bishops.[6] Yet with all this the original conception of penance as a pious exercise was not wholly lost, and we find the very curious notion pro-

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[1] Capit. Ludov. II. Tit. III. (Baluze, II. 352, 355–6).

[2] Capit. Caroli Calvi Tit. XXXV. cap. 5 (Ibid. 166).

[3] Ejusd. Tit. XXXIV. cap. 2, 4 (Ibid. 158, 160).

[4] Ejusd. Tit. XXXVIII. cap. 10; Tit. XL. cap. 10; Tit. XLVIII. (Ibid. 207, 214, 240).

[5] Capit. Carolomanni Tit. III. cap. 4, 7, 9 (Ibid. 287, 288).

[6] Capit. Caroli Calvi Tit. XLV. cap. 4 (Ibid, p. 230).

mulgated that stripes thus inflicted by the bishops and unwillingly endured by the sinners were in some way conducive to their salvation[1]—perhaps like the tribulations sent by God in expiation of sins. Thus, without losing wholly its spiritual character, penance became practically a part of the administration of criminal law. In the episcopal visitations one of the points enumerated for habitual investigation was whether any one had interfered to prevent the bishop or his officials from scourging with rods serfs and slaves for their crimes.[2] In the councils of the period canons of punishment and of penance are intermingled in a way to indicate that no generic distinction was recognized between them, and indeed it is sometimes difficult to determine which is meant.[3] Even in the eleventh century we find King Cnut following the example, and intermingling secular and spiritual penalties. There is no line of demarcation between civil and ecclesiastical jurisdiction, and the monarch prescribes penance as freely as any other punishment.[4] The episcopal authority was to be developed as a civilizing influence, regardless of consistency or consequences.

This conception of penance as punitive and coercive as well as spiritually beneficial long continued, with the consequent confusion between the *forum externum* and *internum*. In 1056 a council of Toulouse threatens with excommunication all perjurers, adulterers, and those involved in incestuous unions who will not come forward and perform due penance.[5] About 1065 we find Alexander II. commuting into exile a penance imposed for homicide committed in battle.[6] About the year 1100 two councils of Gran show how completely punitive were as yet the conceptions of penance. The bishops are ordered to build in each town two prisons for the purpose of coercing penitents; any one convicted of sorcery is to be penanced according to the canons, while, if the accuser fails to prove the charge, he is to be subjected to the same penance; abandoning a husband or adultery is threatened with prolonged penance for noble

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[1] Capit. Caroli Calvi Tit. XXXVIII. cap. 9 (Baluze II. 206)—"Et vel inviti pœnitentiam temporaliter et corporaliter agant, ne æternaliter pereant."

[2] Reginon. de Eccles. Discipl. II. v. 76.

[3] C. Triburiens. ann. 895, cap. 8 (Harduin. VI. I. 441).

[4] Cnuti Legg. Sæcular. Tit. LV.

[5] C. Tolosan. ann. 1056, cap. 12 (Harduin. VI. I. 1045).

[6] Alex. PP. II. Epist. 128 (Migne, CXLVI. 1408).

ladies, while women of the people are to be sold into slavery, and the inobservance of feast days is visited with three days' penance for freemen and with stripes for serfs.[1] In Spain, in 1129, the council of Palencia decreed excommunication and blinding for coining, while for assaults on monks, travellers, traders, women, pilgrims and such folk there was the alternative of entering a monastery for life or perpetual exile.[2] The council of Reims, in 1131, and that of Lateran, in 1139, both held under the presidency of Innocent II., endeavored to suppress the crime of arson by forbidding absolution unless the culprit made restitution, swore never to repeat the offence, and served for a year against the infidel in Syria or Spain.[3]

In all these cases we see how complete is the confusion between the *forum internum* and *externum.* Yet a distinction had already been unconsciously drawn by Lanfranc when he said that any cleric or layman could hear confessions for secret sins, while public ones were reserved for priests[4]—it was the latter, in such case, who reconciled the sinner to the Church, while in the former he dealt only with God. On the other hand, the proceedings in the daily chapters of the monastic orders, detailed above (I. pp. 197 sqq.), indicate that no thought had as yet been given to the distinction between the two forums. Hugh of S. Victor seems to assume that punishment inflicted by secular judges serves as satisfaction whereby God saves the sinner;[5] and though Peter Lombard shows a somewhat clearer conception of the bearing of such cases, Cardinal Pullus manifests the most complete ignorance of any difference between the forum of conscience and the judicial forum when he argues for the immunity of a criminal who has confessed to a priest and received absolution and communion—he is then a temple of God, and it is sacrilege to punish him.[6]

With the development, however, of the power of the keys and of

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[1] Synod. Strigonens. II. circa 1099; III. ann. 1109 (Batthyani Legg. Eccles. Hungar. II. 126, 127, 197).

[2] Hist. Compostellan. Lib. III. cap. 7 (España Sagrada, XX. 486).—C. Palentin. ann. 1129, cap. 12 (Harduin. VI. II. 2054).

[3] C. Remens. ann. 1131, cap. 17; C. Lateran. II. ann. 1139, cap. 18 (Harduin. VI. II. 1194, 1211).

[4] B. Lanfranci Lib. de Celanda Confessione (Migne, CL. 629-30).

[5] Hugon. de S. Victore de Sacram. Lib. II. P. XIV. cap. 7.

[6] P. Lombard. Sentt. Lib. IV. Dist. XV. § 2.—R. Pulli Sentt Lib. VI. cap. 53.

the conception of absolution as bestowed in the sacrament, a new order of ideas was introduced which necessitated the differentiation of the two forums. Richard of S. Victor, in his endeavor to prove why absolution should be followed by penance,[1] shows how novel as yet were these theories and how difficult it was to divest penance of the character it had always borne of punishment. Yet as the Penitentials gradually fell into disuse, as reconciliation to the Church developed into absolution, as the ceremonies grew obsolete which symbolized the expulsion and readmission of the sinner in solemn penance, the schoolmen found it requisite to define the forum of conscience in which the confessor sat as judge, and to distinguish it from the external forum, which might be either that of the secular criminal judge or of the bishop and his delegates determining questions of excommunication, irregularities and the like. Excommunication, or suspension from the Church, which of old had been the sole way of dealing with the sinner, was now relegated wholly to the external forum, save inasmuch as its removal was a condition precedent to absolution, for the ancient rule still held that the sinner must be reconciled to the Church before he could be reconciled to God.

So great a change as this could not be effected suddenly. It required some generations of theologians to work out the theory and procure its general recognition and acceptance. At the end of the twelfth century, Adam de Perseigne shows how confused as yet were the conceptions on the subject when, in explaining absolution by the customary text of the raising of Lazarus, he describes the bonds from which the sinner is released to be three—dishonor arising from public crime, fear of hell, and denial of the sacraments.[2] Richard Poore of Salisbury, in 1217, and St. Edmund of Canterbury, in 1236, manifest utter ignorance of any distinction between the two forums when they decreed that those defamed for serious crime should be thrice summoned to confess and undergo penance, when if they persistently refused they should be required to purge themselves according to law with the requisite number of compurgators.[3] S.

[1] Rich. a S. Victore de Potestate Ligandi cap. 23.

[2] Adami de Persennia Epist. xx. (Martene Thesaur. I. 751).

[3] Rich. Poore Constitt. cap. 26; S. Edm. Cantuar. Constitt. cap. 19 (Harduin. VII. 96, 270).

Ramon de Peñafort was equally oblivious when, in 1235, he included among among the decretals of Gregory IX., a decision of Gregory the Great ordering that the seducer of a virgin should marry her, or in case of refusal, be severely punished corporally and be shut up in a monastery to perform penance until liberated.[1] William of Paris, about the same time, in discussing the authority of the penitential canons says that some doctors regard them as punishments rather than sacramental penances, while others take the opposite view,[2] thus showing that the distinction was beginning to attract attention and provoke debate. By this time the older canons, though still nominally in force, were virtually superseded by a much milder treatment in the confessional, and the distinction in practice between punitive and sacramental penance could not fail to demand explanation. The Church was involved in a dilemma, inevitable from the unacknowledged change which had taken place in the development of reconciliation, with its severe penalties, into absolution which inferred a voluntary rendering of satisfaction to God. On the one hand it could not throw off the tradition which proportioned the punishment to the sin: on the other, it could only impose what the penitent would accept. We shall have to consider hereafter more in detail this profound modification in its discipline, and for the present it suffices to point out that, however lax was the custom of the confessional, in theory sacramental penance remained punitive. Aquinas declares that all works of satisfaction must be penal, and Gerson explains that even contemplation and the love of God are satisfaction for sin because they fatigue the body and interfere with comfort.[3] Public penance was admitted to be sacramental, yet John of Freiburg in describing its objects, dwells on its punitive and deterrent character and only alludes inferentially to its effect on the penitent,[4]

[1] Cap. 2 Extra Lib. v. Tit. xvi. (Gregor. PP. I. Epist. 43, ad Felicem Episc. Sipont.).

[2] Guillel. Parisiens. de Sacr. Pœnit. cap. 20.

[3] S. Th. Aquinat. Summæ Suppl. Q. xv. Art. 1.—Jo. Gersonis Regulæ Morales (Ed. 1488, xxv. H). It is a striking illustration of the uncertainty pervading all aspects of the subject that Aquinas (Summæ Suppl. Q. xv. Art. 3) especially pronounces contemplation not to be satisfactory "quia totaliter est delectabilis." In the modern confessional internal acts, such as meditation on death can be prescribed as penance (La Croix, Theol. Moral. Lib. vi. P. ii. n. 1241).

[4] Astesani Summæ Lib. v. Tit. xxxiv. Q. 3.—Jo. Friburgens. Summæ Confessor. Lib. iii. Tit. xxxiv. Q. 13.

while, as we have seen (p. 87), the inquisitors, when inflicting the severest penalties on heretics converted by force, treated them as penance accepted by the prisoner for the salvation of his soul. This was a self-evident fiction, but it was a fiction necessary to maintain the character of the *forum internum*, and we see it, when Philippe le Bel compelled Clement V. to absolve Guillaume de Nogaret for the supreme offence of complicity in the death of Boniface VIII. and the laborious penance of pilgrimages and crusade imposed on him are unctuously assumed to be provisions for his salvation.[1] The council of Trent was thus constrained to the self-contradiction of defining in one breath that satisfaction must be a punishment and a chastisement for the sins committed, and of asserting in the next that the sacrament is not a forum of penalties.[2] This rendered the penality of satisfaction virtually *de fide*, and it has continued to be taught in spite of the reduction of penance to mere formal and nominal observances. Palmieri says that works of penance are only satisfactory in so far as they are penal, and no matter how meritorious they may be they do not serve as satisfaction if they contain no penality,[3] which would seem to be somewhat irreverent treatment of the Paternosters and Ave Marias forming the ordinary penitential prescriptions.

We have seen how various and contradictory were the provisions of the Penitentials in the assignment of penance, and also how rigorous they were for the most part. Largely drawn from the canons of the early Church, there was, nominally at least, little disposition to mitigate the ancient severity or to modify its punitive and deterrent character. For the graver sins penances of seven, ten and fifteen years are frequent,[4] showing that as private penance crept into use there was, in this respect, no distinction between it and public penance. This rigor continued, not only in the manuals, but in the canons of councils and in the decisions actually rendered. In the

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[1] Raynaldi Annal. ann 1311, n. 50.

[2] C. Trident. Sess. XIV. De Pœnit cap. 8. "Sed etiam ad præteritorum peccatorum vindictam et castigationem . . . . Nec propterea existimarunt sacramentum pœnitentiæ esse forum iræ vel pœnarum"

[3] Palmieri Tract. de Pœnit., p. 426. —" Quare fundamentum satisfactionis est pœnalitas operis . . . Quod si actus aliquis meritorius nullam pœnalitatem haberet non foret satisfactorius."

[4] Theodori Pœnit. Lib.I. cap ii. §§ 2, 3, 4, 5, 15, 16, 17, 18, 19, etc.

latter half of the ninth century we have an opportunity of seeing some of the latter, in cases of public penance, for appeals to the Holy See for penance and reconciliation became frequent, and the sentences in some of these have been preserved in papal epistles. Thus, in 867, Nicholas I. sends to Archbishop Hincmar the decision which he had rendered in the case of a certain Eriath, self-confessed of presbytericide; the penance imposed is twelve years, of which the first three are to be passed at the church-doors, weeping and begging mercy of God; during the next two years the penitent is to be admitted among the auditors; after this he can be received to communion on the principal feasts, but is not allowed to make oblations. During the whole time, except on feast-days, he is to fast as during Lent, taking no food till evening, and he is not to use a carriage, but is to perform all journeys on foot. The pope concludes by saying that the penance should be life-long, but is humanely shortened in view of the faith and devotion shown by the pilgrimage to Rome.[1] This statement is confirmed by a canon of the council of Mainz, in 888, which prescribes for presbytericide life-long abstinence from flesh and wine, and fasting until evening, except on Sundays and feasts, with prohibition to bear arms and to travel except on foot; for five years the penitent is to stand at the church-door praying God for pardon, then for seven more he is to stand among the auditors, and not until the expiration of the twelfth year is he to be admitted to communion.[2] For ordinary homicide, in 895, the council of Tribur orders a seven years' penance in immense detail, though not quite so rigorous as the above, and not until the end is the penitent reconciled and restored to communion.[3] A general decretal, attributed to Nicholas I., admits parricides and fratricides to communion after two years, if truly contrite, but through life they

[1] Nicholai PP. I. Epist. 119. For other similar cases see Epistt. 133, 136, 140, the former of which, prescribing ten years for matricide, is carried into Gratian, Cap. 15 Caus. XXXIII. Q. ii. See also (Pflugk-Harttung Acta Pontiff. Roman. III. n. 3) a sentence of Benedict III., in 856, in a case of parricide, where the penance is twelve years.

[2] C. Mogunt. ann. 888, cap. 16 (Harduin. VI. I. 407). A variant of this, for the murder of a monk, was seven years' public penance and inclusion in a monastery for life.—Bened. Levitæ Capitul. Lib. VI. cap. 90; Isaaci Lingonens. Capit. Tit. II. cap. 8; Ivon Decr. X. 19; Gratian. Cap. 28 Caus. XVII. Q. 4.

[3] C. Triburiens. ann. 895, cap. 54-58 (Harduin. VI. I. 455).

are required to fast, always to go on foot, and never to bear arms except against the pagans.[1]

The mystic number seven seems to have had an irresistible attraction for the Church. It determined the number of sacraments and of mortal sins, and it became the standard measure of penance, as we have seen above in the Penitentials and the council of Tribur. Early in the seventh century St. Isidor of Seville speaks of seven years as prescribed by the Fathers for the readmission of the penitent, and he explains it by the seven days' exclusion from the camp required of Miriam when stricken with leprosy for reviling Moses (Numbers, XII. 14).[2] The passage is quoted by both Rabanus Maurus and Gratian, the latter of whom adds that it has become the established custom, unless the position of the offender or the magnitude of the offence requires a longer period.[3] This not only chronicled the adoption of seven years as a standard, but assured its retention, and the rule passed into one of the commonplaces of the canonists, assumed by all as a matter of course throughout the middle ages, even after all such observances had become obsolete.[4] Yet this standard term did not by any means supersede the longer periods prescribed for special offences in the Penitentials. We have seen above the severity of the penances prescribed by the reforming popes of the second half of the ninth and of the eleventh centuries, and a typical instance may be adduced of a penance of fourteen years, for the seduction of a cousin, imposed by Alexander II. about 1065.[5] Still severer was one of thirty years prescribed by Adelard of Soissons for a homicide committed during the Truce of God, and Alexander II., when appealed to, said that he did not approve of it because he did not find it in the canons, but he did not disapprove of it because it had been enjoined by prudent and religious men for the protection of the Truce.[6]

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[1] Nicholai PP. I. Epist. (Martene Ampl. Collect. I. 151).

[2] S. Isidori Hispalens. Epist. IV. n. 10.

[3] Rabani Mauri Pœnitentium Lib. cap. 1.—Gratian. Cap. 11, Caus. XXXIII Q. ii.

[4] S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.—Hostiens. Aureæ Summæ Lib. V. de Pœn. et Remiss. § 60.—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 125.—Astesani Summæ Lib. V. Tit. xxxi.—S. Antonini Summæ P. III. Tit. xvii. cap. 20.

[5] Alex. PP. II. Epist. 127 (Migne, CXLVI. 1408).

[6] S. Ivon. Decr. X. 31.

The character of the penance thus inflicted varied somewhat in different times and places, as may be gathered from occasional instances cited above. Perhaps an average example may be found in the formula given by Halitgar from the so-called Roman Penitential, which is also given in a collection of the twelfth century. A penitent required to fast on bread and water for a year is subjected to the following regimen: Bread and water on Mondays, Wednesdays and Fridays; abstinence from wine, mead, ale, flesh, fat, cheese, eggs and fat fish on Tuesdays, Thursdays and Saturdays; on Sundays and eighteen designated feasts he can live like other Christians, but must avoid all excess. If his sin be such as to subject him to a second year's fast, he is, on Mondays and Wednesdays, to eat nothing till Vespers, after which he may have bread and dried or uncooked vegetables, with a moderate amount of ale; on Fridays, bread and water. Then for three *quarantines*, or periods of forty days, before Christmas and Easter and after Pentecost, he is to fast two days in the week until nones (3 P.M.), with subsequent food as above, and on Fridays bread and water; on the enumerated feasts and Sundays he does not fast.[1] Towards the end of the twelfth century, Alain de Lille explains for us the seven years' penance prescribed in the Penitentials for serious offences. First, there is a *quarantine* of forty days' unbroken fast on bread and water; after this, for the first year, strict abstinence from all intoxicating beverage and from flesh and blood and fat fish, except on feasts of general observance; but if sick, or on a journey, or in such company that the penitent cannot abstain, he may, for a denier or by feeding three paupers, redeem Wednesday, Friday and Saturday, so that he may drink wine or beer or mead, but on returning home or recovering health, he loses this privilege. At the expiration of the first year he is introduced into church and receives the kiss of peace. During the second and third years he has the right of redeeming at home the Wednesdays, Thursdays and Saturdays. During the remaining four years he fasts for three *quarantines*, before Christmas and Easter and after Pentecost. Then

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[1] Halitgari Lib. Pœnit. (Canisii et Basnage II. II. 128).—Ant. Augustini Pœnit. Roman. Tit. IX. cap. 23, 24.

The Pœnit. Vallicellian. II. cap. 46 (Wasserschleben, p. 564) explains that of old the whole term of penance was passed in rigorous fasting, but that, as the fervor of penitence diminished, it was gradually reduced until it became for only one or two days in the week.

throughout life he is not to be free from penance, but shall fast on bread and water on Fridays, or redeem them weekly with a denier or by feeding three paupers. Yet this is a concession to mercy, for Alain says that the canons provide that murder committed through cupidity shall be punished by entering a monastery and serving there during life.[1] It is necessary to bear in mind the rigor of these observances in order to appreciate the magnitude of the change involved in the subsequent laxity.

The feature of the *quarantines* alluded to in these formulas is worth a moment's attention, because it became a standard of a certain kind, serving as a measure of penance and preserved in indulgences long after it had become obsolete in practice. We have seen its appearance in the Penitential of Theodore and the proceedings of the council of Thionville, in 821 (pp. 103, 110), in the latter of which penance is rated at five or six or ten or twelve quarantines. The origin of this is evidently to be found in the Lenten penance of those who were clothed in sack-cloth and ashes on Ash Wednesday, and were reconciled on Holy Thursday. This penance was sometimes of extreme severity; in some of the *Ordines* it is prescribed that the penitents are to be imprisoned in the church during the whole term and to be rigorously fasted.[2] A formulary of the church of Siena, of about 1225, describes this imprisonment as passed in harsh garments, on bread and water, except on Sundays, the penitent daily making a hundred genuflections and reciting a hundred

[1] Alani de Insulis Lib. Pœnitent. (Migne, CII. 294). Alain's subsequent remarks and guesses, however (p. 297), show that already this rigor was virtually obsolete, and that even he, the Universal Doctor, was unfamiliar with it.

Yet, as late as 1170, letters of John, Bishop of Maguelonne, addressed to all parish priests, recite that he has imposed on Bernard, the bearer, for his enormous crimes, that for seven years he shall wander barefoot; during life he is not to wear a shirt; for forty days before Christmas he is to eat neither meat nor fat on Thursdays, and nothing but bread and wine on Fridays; on all Fridays in Lent and on ember days he is to drink only water, and on all Saturdays to abstain from meat and fat, excepting on feasts and when he is sick. As he is utterly poor, food and clothing are asked for him, and power is given to those addressed to relax his penance if he is found deserving.—Martene de antiq. Eccles. Ritibus Lib. I. cap. vi. Art. 4, n. 13.

[2] Martene de antiq. Eccles. Ritibus Lib. I. cap. vi. Art. 7, Ordo 10; Lib. IV. cap. xxii. Ordo 1.

Paternosters every day and as many every night, sleeping on straw, never washing his hands, and speaking to no one before the third hour of the morning nor after complins.[1] Thus the quarantine varied greatly in severity, the severer form being known as *Carina*,[2] a word frequently occurring in the canons and in indulgences, of which the precise significance has been the subject of some discussion. As described by the council of Tribur, in 895, during the carina the penitent is to taste nothing but bread and water, to go unarmed and barefoot, to wear no linen except drawers, not to use a vehicle or approach his wife, and to be strictly segregated from all intercourse.[3] Still more rigorous is a formula requiring the penitent not to come within seven feet of the church or to enter the vestibule without licence, to lie on the earth, to eat like a beast off the ground a single daily meal of bread and water mixed with ashes, not to wash himself or change his garments, which must be of wool, and not to have, without permission, fire or anything that can give bodily ease.[4] In the middle of the eleventh century St. Peter Damiani shows us that the carina was customarily passed in prison, and this is confirmed by a decree of Gregory VII., about 1080, imposing on clerics guilty of homicide fourteen years' penance, commencing with imprisonment for forty days.[5] Such was the carina, and its rigor gives abundant evidence that the penance to which it formed the introduction was designed to strike terror to the hearts of sinners.

We are not to assume from all this that the repertory of penitential observances was thus exhausted. Some of the formulas direct the priest to adapt the penalty to the character of the penitent and

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[1] Muratori Antiq. Ital. Diss. 68 (T. XIV. p. 115).

[2] "Accusasti aliquem et per tuam accusationem occisus est; nisi pro pace hoc feceris XL. dies in pane et aqua, quod *carena* vocatur, cum septem sequentibus annis pœniteas."—Burchardi Decr. XIX. 5.—Cap. 8 Extra Lib. V. Tit. 1.

"Qui gravia crimina commiserint . . . ut sunt homicidia et adulteria, pro quibus instituta est *carina*."—Honor. Augustod. Speculum Ecclesiæ, De Nativ. Domini.

Alain de Lille speaks of it as solemn penance inflicted on the laity but not on the clergy.—Lib. Pœnit. (Migne, CCX. 295).

[3] C. Triburiens. ann. 895, cap. 55 (Harduin. VI. I. 455).

[4] Amort de Indulgentiis, I. 26.

[5] S. Pet. Damiani Opusc. XL. cap. 4.—Löwenfeld Epistt. Pontiff. Roman. p. 59.

of his sins, enjoining abstinence from food on one, almsgiving on another, genuflections on a third, standing at the cross on others, and so forth.[1] For clerics and monks, psalmody formed a fitting mode of penance.[2] Among the Anglo-Saxons even the cold bath was reckoned as a penitential resource.[3] Another form known as *palmatæ* has caused some debate as to its meaning, and probably varied in its significance at different times. In the earlier references to it, it evidently means blows on the hand,[4] but subsequently it was a spiritual exercise, apparently consisting of falling on the ground with the hands outstretched, while reciting psalms or prayers.[5] Dom Mabillon is probably in error when he considers it to be merely the beating of the breast, which has always been observed as one of the signs of contrition.[6]

The discipline, or scourging, was a favorite infliction. We have seen that it was used habitually on slaves, and that among the monastic orders its administration was a feature of the daily chapters. This could scarce be otherwise when it was classed with fasting as the most efficient means by which devotion mastered the rebellious flesh. The hideous lengths to which this voluntary self-infliction was carried are interesting as an illustration of morbid asceticism, but are foreign to our immediate purpose. As a penance enjoined, flagellation was not entrusted to the merciful hands of the penitent himself, but the stripes were stoutly laid on by others. So customary was it that St. Peter Damiani speaks of many holy bishops who always had penitents flogged in their presence as a preliminary to the imposition of penance,[7] and the touch of the rod before granting

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[1] Ps. Bedæ Lib. de Remed. Peccat. Prolog. (Wasserschleben, p. 248).—Ordo publicæ Pœnitent. (Pez Thesaur. Anecd. II. II. 613).

[2] Ps. Bedæ cap. 22 (Wasserschleben, p. 270).

[3] Canons under King Edgar. Of Penitents, cap. 16 (Thorpe, II. 285).

[4] "Si quis tinxerit manum in aliquo cybo liquido et non idonea manu, C. palmadas emendetur."—Egberti Pœnit. cap. xii. § 9 (Wasserschleben, p. 244).

"Qui non idonea manu tangit limphaticum alimentum C. emendatur manualibus plagis."—Pœnit. Vindobonens. *b.* cap. xxiv. (Ibid. p. 495). And again "manuplagis" in Pœnit. Remens. cap. iii. § 19 (Ibid. p. 502).

[5] Burchardi Decr. XIX. 17, 25.—Johann. Discip. Vit. S. Pet. Damiani cap. 5 (Migne, CXLIV. 122).—S. Pet. Damiani Lib. VI. Epist. 27.—Ejusd. Opusc. XV. cap. 18.

[6] Binterim, Denkwürdigkeiten, V. III. 153.

[7] S. Petri Damiani Lib. VI. Epist. 27.

absolution from excommunication, which became customary at a later period, is a symbolical survival of the ancient practice.[1] To what an extent this feature of penance was carried may be judged from the precepts of the council of Narbonne, in 1244, for repentant heretics who came forward voluntarily, acknowledged their errors and denounced their comrades. Besides other heavy penances they were to present themselves every Sunday, stripped as far as the inclemency of the weather would permit, with rods in their hands, in the parish church to the priest while celebrating mass, and between the Epistle and the Gospel he was to beat them, the same ceremony being performed in all public processions. Besides this, on the first Sunday in every month, after mass, they were to be taken, similarly stripped and with rods, and be beaten at every house in the town where they had met or seen heretics. Moreover, no interdict which might be cast over the town, suspending divine service, was to afford them any intermission of the torture, and no limit of time is prescribed for it.[2] Ostensibly this was for the health of their souls, and it is to be hoped that it counted against the pains of purgatory.

Pilgrimages also, as we have incidentally seen above, were a frequent feature of penance. It was an early belief of the Church that visiting the holy places and the tombs of apostles and martyrs to pray was a pious work, yielding spiritual and material rewards. This was a natural devolution from the corresponding pagan custom; even as the old temples were transformed into churches, so the people sought from the relics of martyrs the same cures and the same miraculous assistance which they had been taught to expect from the gods of heathendom. Even in the second century Alexander, the first Bishop of Cappadocia, in consequence of a vision, performed a pilgrimage to Jerusalem, and as early as 333 the concourse of pilgrims thither was great enough to warrant the compilation of an itinerary

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[1] Thus the minor papal penitentiaries, whose function it is to absolve for papal reserved cases, including the excommunications involved in them, have for a sign of office a wand with which the penitent is lightly touched. If the latter is a man he strips to the shirt and kneels before the priest, who strikes him softly with the wand or a scourge, while chanting the *Miserere*. By a concession of Benedict XIV., in 1748, this ceremony gains for both parties an indulgence of twenty days.—Manuale Facultatum Minorum Pœnitentiariorum Apostolicorum, Roma, 1879, pp. 11, 27.

[2] C. Narbonneus. ann. 1244, cap. 1 (Harduin. VII. 251). See also C. Tarraconens. ann. 1242 (Ibid. p. 352).

showing every stage and change of horses from Bordeaux to Zion. There they found all objects of interest identified accurately—the Pillar of Flagellation, the stone on which Judas betrayed his Master, the fountain in which Philip baptized the eunuch and even the stone which the builders rejected.[1] This form of devotion naturally attracted the satire of the unbelieving Julian, to which Cyril of Alexandria replied at much length, proving the justice of venerating the remains of the martyrs who had perished for the faith.[2] There must have been some, however, who did not share the belief, for, in 362, the council of Gangra anathematizes those who despise pilgrimages and offerings at the tombs of the saints.[3] St. Jerome possibly was one one of these, for he argues with St. Paulinus of Nola that a man can serve God as efficiently at home as in Palestine and obtain an equal reward.[4] St. Paulinus, however, was an assiduous frequenter of holy places; every year he visited Rome to worship at the tombs of the apostles; he celebrated in verse the miraculous cures and concourse of grateful pilgrims at the shrine of St. Felix, and he shows us that the custom was fully established of rendering churches attractive by collecting in them relics of the saints, particles of the cross, etc.[5]

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[1] Euseb. H. E. VI. 11.—Ejusd. Præpar. Evangel. Lib. XIII. cap. 11.—Itinerarium a Burdegala usque Hierusalem (Migne, VIII. 791).

In 1223 the Cardinal-legate Giovanni Colonna brought to Rome the Pillar of Flagellation and set it up in his church of S. Prassede (Ciacconius, II. 57). Possibly it continued to be shown in the portico of a church on Mount Zion, where St. Jerome describes it as still in his time stained with blood.—S. Hieron. Epist. CVIII. cap. 9, ad Eustoch.

[2] Cyrilli Alexand. contra Julianum Lib. X. (Juliani Opp. Lipsiæ, 1696, pp. 335-6).

[3] C. Gangrens. ann. 362, cap. 20.

[4] S. Hieron. Epist. LVIII. n. 2-4, ad Paulinum.

[5] S. Paulini Epist. XX. n. 2; XXXI. n. 1; XLII. n. 7, 8; XLIII. n. 1; XLV. n. 1. Of the shrine of St. Felix he says (Natalis VIII. 380-7).

Per quem bona dona
Et medicos exercet [Deus] opes terraque marique.
Omni namque die testes sumus undique crebris
Cœtibus aut sanos gratantia reddere vota
Aut ægros varias petere ac ambire medelas.
Cernimus et multos peregrino a littore vectos
Ante sacram sancti prostratos martyri aram.

The shrine of St. Ammonius was held to have special virtue for the cure of fever.—Palladii Vit. S. Jo. Chrysost. cap. 2.

That this indeed was general throughout Christendom is evident from the statements of Evodius, Bishop of Uzale.[1]

Pilgrimages to these sanctified spots continued to grow in popularity. When Flavianus, Bishop of Antioch, translated the bones of some martyrs, a sermon of Chrysostom shows how the people flocked for prayer at their tombs,[2] and, in 394, Theodosius the Great gave an emphatic illustration of the popular faith in this mode of securing the favor of heaven, for when about to set forth on the perilous campaign against Eugenius and Arbogastes he prepared for it by visiting in sack-cloth the tombs of the apostles and martyrs.[3] St. Augustin had full faith in cures and miracles, especially in the expulsion of possessing demons, wrought by such devotions, and his contemporary Evodius relates a sheaf of marvels occurring at the shrine of St. Stephen—how, when a terrific dragon appeared in the clouds, the whole population with a common impulse rushed thither for prayer, and the dragon vanished innocuously; how, when a vintner found two hundred jars of wine turn sour on his hands a jugful sent to the relics and then portioned out among the jars restored them all to soundness.[4] It was in vain that the council of Carthage, in 419, tried to check the growth of these beliefs by ordering the bishops to cast down the altars, which were everywhere erected to the martyrs, unless there was a body or a relic there, adding that, if the people will not permit this, the bishops must persuade them not to frequent such places; the traditions respecting them must be strictly investigated, and the habit of trusting to vain revelations and dreams must be withstood.[5] St. Arsenius showed a wise forethought and becoming modesty when on his death-bed he threatened his disciples with the judgment-seat of Christ if they should give any portions of his body as relics.[6]

It was impossible to set bounds to the extension of the custom.

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[1] Evodius de Mirac. S. Stephani (Migne, XLI. 833 sqq.).

[2] S. Jo. Chrysost. in Ascensione Domini Homilia (Ed. Migne, II. 442–3).

[3] Rufini H. E. II. 33.

[4] S. Augustin. Epist. LXXVII. n. 3; De Civitate Dei XXII. 8; De Unitate Ecclesiæ cap. 19.—Evodii de Mirac. S. Stephani Lib. II.

[5] Cod. Eccles. African. cap. 83.—Charlemagne found himself obliged to reissue this canon and prescribe its observance.—Capit. Caroli Mag. ann. 789, cap. 1. Cf. Ansegisi Capitular. I. 41.

[6] Vitæ Patrum, Lib. III. cap. 163 (Migne, LXXIII. 794).

On the one hand, there was the rivalry of the existing paganism, from which the Christians were but partially emancipated, with its crowds of subordinate deities, of whom the saints and martyrs were the substitutes, and its belief in amulets and charms replaced by relics. On the other, there were the substantial material advantages accruing from the afflux of pilgrims to all shrines of acknowledged virtue. Of course there was no charge made for the intercession of the saint by the priests who ministered at his altar, but no pilgrim could anticipate a favorable interposition who did not bring some "alms," some voluntary oblation to aid in his cult. This was an established custom as early as the fourth century. St. Paulinus alludes to it in his description of the miracles wrought at the shrine of St. Felix, and we learn from him that rustics who had nothing else to offer brought swine and cattle.[1] Everything thus tended to foster the practice, and it flourished accordingly.[2] Even a straw or a pinch of dust brought from a shrine of approved sanctity was held to convey a portion of its virtues and to work similar miracles,[3] even as to-day there is corresponding belief in the water of Lourdes.

The fall of the Empire under the incursions of the Barbarians must necessarily have diminished considerably the number of pilgrims by the difficulties of transport and insecurity of the roads, but as soon as society sought to reconstruct itself under the house of Pepin, pilgrims were taken under the special protection of the laws, and every effort was made to facilitate their pious wanderings. Extra *wer-gilds* were imposed for injuries inflicted on them; heavy fines were exacted from all who should attempt to collect tolls from them; houses of reception were ordered to be built for their accommodation;

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[1] S. Paulini Nolani Natalis XII.

The profits to a fashionable shrine are visible in the wide variety of coins in one of the remittances of Bishop Gelmirez of Compostella to Calixtus II. when negotiating for the purchase of the archiepiscopate. It consisted of 9 marks, 100 maravedises, 211 sous Poitevins, 60 sous of Milan and 20 sous Tolosains.—Hist. Compostellana, Lib. II. cap. 10.

[2] Gennadii Marsiliens. de Eccles. Dogmatibus cap. 73.—Gregor. PP. I. Homil. in Evangel. XXVII. n. 7; XXXII. n. 6.

St. Isidor of Seville is more rational. He only speaks (De Eccles. Officiis P. I. cap. 35) of the effect on the soul of the tombs of the martyrs, stimulating us to charity and to the effort to emulate their virtues.

[3] S. Paulini Nolani Epist. XLIX. n. 14.—S. Gregor. Turonens. de Gloria Confessorum, cap. 64; Vit. Patrum cap. VIII. n. 10.

no one, whether rich or poor, was allowed to refuse them fire and water and shelter, and priests were told that tithes and oblations were for the use of the poor and of pilgrims, and should be spent on them.[1]

At this period the three principal centres of devotional pilgrimage were Rome, Jerusalem and Tours, and to them was added, early in the ninth century, Compostella, to which the episcopal seat of Iria was transferred on the finding of the long lost and forgotten body of St. James the Apostle.[2] As time went on the passion for pilgrimages developed to a degree that was almost uncontrollable, like the caravans of true believers who yearly visit the Kaaba. In the first half of the eleventh century, according to a contemporary, vast multitudes were seized with a common impulse to visit the Holy Places. This began with the lower orders; then the contagion spread to the well-to-do and reached nobles and kings; even women joined the bands, and, though devotion was the general motive, many went merely through vain-glory.[3] In 1064 a great multitude, estimated at not less than seven thousand, went from Germany, headed by the Archbishop of Mainz and the Bishops of Utrecht, Bamberg and Regensburg—not as humble pilgrims, for they carried a store of gold and silver vessels out of which they ate.[4] Foulques Nerra, Count of Anjou, one of the most turbulent nobles of his day, made no less than three pilgrimages to Jerusalem and brought home priceless relics.[5] Compostella was a close rival to Jerusalem. The pilgrims flocking thither were so numerous that they encumbered the roads, and the Moorish envoys, in 1121, going there to Queen

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[1] Legg. Baioarior. Tit. III. cap. 14 (Bened. Levit. Capitular v. 364).—Synod. Vernens. ann. 755, cap. 22, 26.—Pippini Capitul. Metens. ann. 757, cap. 6.—Capitul. Caroli Magni ann. 789, cap. 73 (Capitul. Ansegisi I. 70; Bened. Levitæ VI. 378).—Legg. Langobard. Pippini cap. 12.—Capitul. Caroli Mag. I. ann. 802, cap. 27.—Herardi Turonens. Capitul. cap. 18.—Bened. Levitæ Capitul. VII. 375.—C. Nannetens. ann. 895, cap. 10.

[2] Baronii Annal. ann. 816, n. 48–53. Curiously enough Baronins manifests some scepticism as to the miraculous bringing of the body from Jerusalem to Iria. The head, however, was not at Compostella till it was placed there, in 1116, by Queen Urraca. It had been stolen in Palestine and brought to Spain by Martin, Bishop of Braga.—Historia Compostellana I. 112.

[3] Rodulphi Glabri Histor. Lib. IV. cap. 6.

[4] Mariani Scoti Chron. Lib. III. ann. 1064.

[5] Gesta Consulum Andegavens. VIII. 13–15 (D'Achery Spicileg. III. 252).

Urraca, complained that they scarce could make their way.[1] The Crusades, in fact, were only armed and organized bands of pilgrims, and they are frequently so designated by the writers of the period, even when they were fighting heretics or Christians in Europe at the call of the Holy See.

Occasional protests against the development of the pilgrim passion were heard. Claudius of Turin included it among the observances not to be approved, for which he was roundly berated by Jonas of Orleans.[2] Even St. Peter Damiani considers that pilgrimages are not suited to every one—monks and nuns had better stay in their convents and serve God there.[3] Hildebert of Le Mans tells Foulques Rechin, Count of Anjou, that his home duties are more important than a contemplated pilgrimage to Compostella, and he congratulates Adela, dowager Countess of Le Mans, on her abandoning one to Jerusalem, for we are commanded to carry the cross of Christ, but not to seek his sepulchre.[4] Honorius of Autun thinks that the money spent in wandering had much better be bestowed on the poor.[5] Lambert le Bègue of Liége took the same view, and suffered persecution because he taught it in his sermons and because he added that no benefit was to be derived from visiting Jerusalem by those who, as was frequently the case, procured the money necessary for the journey by fraud and rapine and even by homicide.[6] Men also there were clear-sighted enough to see that the character of the pilgrims and the results of the pilgrimage were such as not to

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[1] Historia Compostellana Lib. II. cap. 50. In 1495, when King Ferdinand was in Catalonia expecting an invasion from France, news was brought to Queen Isabella that so many French pilgrims, some armed and some unarmed, were trooping to Compostella, as to constitute a real danger to the kingdom in case of war. Her counsellors advised prohibition of the pilgrimage, but she preferred to fall into the hands of man rather than of God, and the pilgrims were undisturbed.—Crón. de Pulgar, Contin. (Rosell, Crónicas de los Reyes de Castilla, III 521).

The persistent begging of the pilgrims was a standing grievance, complained of by the Córtes in 1523, 1525, 1528, 1534, 1540 and 1555.—Novísima Recopilación, ley 6, Tit. xxx. Lib I.

[2] Jonæ Aurelianens. de Cultu Imaginum Lib. III.

[3] S. Petri Damiani Lib. VII. Epist. 17.

[4] Hildeberti Cenomanens. Lib. I. Epistt. 5, 15.

[5] Honor. Augustodun. Elucidarii Lib. II. cap. 23.

[6] Paul Fredericq, Note complementaire sur les Documents de Glasgow concernant Lambert le Bègue, p. 12 (Bruxelles, 1895).

promise much spiritual gain. St. Bernard describes the crusaders of his day, whom he did so much to send forth, in the most unflattering terms. In that countless multitude, he says, you will find few save the utterly wicked and impious, ravishers and sacrilegious, homicides, perjurers and adulterers, whose departure is a double gain. Europe rejoices to lose them and Palestine to gain them; they are useful in both ways, in their absence from here and their presence there.[1] Some half a century later William of Newburgh tells us that not a fourth of the crusaders returned home—the rest died of want, exposure or battle—and in this he sees a striking exhibition of the mercy of God, for those who came back relapsed into their evil ways, while those who died went to heaven, so that the crusades were a success in peopling the heavenly Jerusalem if they failed to secure the earthly one.[2] About the year 1300 the blessed Giordano da Rivalta, a noted Dominican preacher, is even more decided in his animadversions. God, he says, sets little store by such works; what he wishes is heart-felt love, while pilgrimages are the occasion of quarrels and cheating and fornication and homicide, and he would advise them most rarely.[3] In the seventeenth century Father Gobat says that those who perform many pilgrimages are rarely sanctified, for to most people they are merely a matter of carnal gratification,[4] and, if we may judge from Binterim's defence of pilgrimages, objections to their demoralizing influence are urged against them at the present day.[5]

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[1] S Bernardi Lib. ad Milites Templi cap. 5.

Cardinal Pierre d'Ailly was of the same opinion as St. Bernard when, at the council of Constance, in 1415, he proposed, as one of the measures of reform, that a general crusade should be preached, not, apparently, with a view to the recovery of the Holy Land, but to relieve Europe of the scum of the population—"Et tunc forte purgantur per hoc præcipue Italia et alia propinqua Christianorum regna de multis malis hominibus qui in eis sunt."—P. de Alliaco de Necessitate Reformat. cap. 15 (Von der Hardt, I. VII. 292).

The "pilgrims" seemed to think that the indulgence enabled them to commit whatever crimes they pleased. In 1111 a party of English crusaders on the voyage landed in Galicia, took pay from one party to a neighborhood war, and raided the country, despoiling churches and ransoming the people. The inhabitants of Iria attacked and captured them.—Hist. Compostellana Lib. I. cap. 76.

[2] Guillel. Newburg. Hist. Angl. Lib. IV. cap. 27, 30.

[3] Prediche del Fra Giordano da Rivalta, Firenze, 1831, T. I. p. 253.

[4] Gobat Alphab. Confessar. n. 652.

[5] Binterim, Denkwürdigkeiten IV. I. 648. In fact, Enrico Ferri, Professor

Yet pilgrimages responded too completely to the popular beliefs and were a source of too much profit to the Church not to be encouraged and stimulated. The process is well indicated by a passage in Rodolphus Glaber, who tells us that, at the commencement of the eleventh century, holy relics came to be discovered in many places. This began at Sens, when Archbishop Leofric found the remains of St. Stephen and many others, among which was said to be a fragment of the rod of Moses: innumerable pilgrims, even from as far as Italy and beyond seas, flocked thither for the cure of their diseases, and the concourse greatly enriched the town.[1] The tempting harvest of offerings thus laid upon the altars of favorite saints became the subject of unseemly squabbles between rival custodians. Even at the church of the Holy Sepulchre there was a standing quarrel between the canons and the Patriarch of Jerusalem over the oblations, which successive popes vainly endeavored to compose.[2] In 1217, Honorius III. was called in to settle a question of the kind as to the offerings made to St. Nicholas Cnut at Aarhus.[3] The sacred precincts of St. Peter's were not free from the acquisitiveness inseparable from human nature. A bull of Innocent III. directs pilgrims to deposit their oblations in a chest under the high altar, where they will be properly used, and not to listen to wicked suggestions to make their offerings in other spots. This had to be repeated by Alexander IV. in 1259, and a long series of decisions as to the division of the funds accruing, shows that the greed of the officiating priests led to perpetual discord on the subject.[4] Already, in 1186, the offerings at the shrine of the recently martyred St. Thomas of Canterbury were large enough to require papal intervention to

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of Criminal Law in the University of Pisa, in suggesting various measures for the suppression of crime, says that "l'abolition de certains pélerinages empêcherait un grand nombre de délits contre la pudeur, les personnes, la propriété, déterminés par les orgies qui très souvent les accompagnent, et la confusion, surtout nocturne, des sexes."—La Sociologie Criminelle, p. 241 (Paris, 1893).

[1] R. Glabri Histor. Lib. III. cap. 6.

[2] Calixti PP. II. Epist. CXLVII.—Cœlestin. PP. II. Epist. XXVI.—Lucii PP. II. Epist. LXIII.—Eugenii PP. III. Epist. CCC.—Alex. PP. III. Epist. IV., CCCCLXXIV., CCCCLXXVII., DCCLXI.—Cœlestin. PP. III. Epist. CCXLV.

[3] Langebek et Suhm Scriptt. Rer. Danicar. VI. 391.

[4] Bullarium Vaticanum I. 96, 130, 134, 140, 156, 157, 177, 216.

regulate their apportionment,[1] and finally in the leading churches of Rome an official designated as *altararius* was appointed, whose duty consisted in collecting the oblations and applying them to their proper uses, and the importance of the function is seen in the large stipend of a florin *per diem* attached to the office by Benedict XII. in 1338.[2] It is easy thus to appreciate the motive of such instructions as those of Bishop Eudes of Paris, about 1198, that all parish priests in the diocese should, in their sermons and in the confessional, require their parishioners to visit Nôtre Dame at least once in the year.[3]

While the cure of disease was the chief object prompting voluntary pilgrimages, the remission of sin was also a powerful impelling motive, for it was held that thereby the intercession of the saint was obtained, which was as efficient for the ills of the soul as for those of the body. When, about 1145, Peter the Venerable heard of threatened reverses to the Templars at Antioch he grieved to think that the road might be closed through which, for the past fifty years, such innumerable thousands of pilgrims had escaped hell and gained heaven,[4] and the realty of this was clearly manifested to St. Birgitta of Sweden, to whom, on her entering the church of the Holy Sepulchre, Christ himself revealed that she was cleansed from all sin, as though newly baptized, and, moreover, that, as a reward for her devotion, the souls of several of her kindred had that moment been released from purgatory.[5]

That pilgrimage should be utilized as a form of penance was therefore inevitable. It was arduous enough to be punitive in no slender degree and was healthful to the soul; for the penitent anxious to redeem his sins no pious exercise could be more appropriate. Accordingly in the Penitentials we find it frequently and unsparingly prescribed; three, seven, ten, twelve or fifteen years are ordered to be spent in pilgrimage, while in the case of spiritual incest there is an alternative offered of death or perpetual pilgrimage. With the customary confusion of secular and spiritual penalties, moreover, exile and pilgrimage are apparently convertible terms, justifying the

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[1] Harduin. VI. II. 1186.

[2] Bullar. Vatican. I. 309, 339.

[3] Odonis Paris. Constitt. cap. 51 (Harduin. VI. II. 1946).

[4] Petri Venerab. Lib. VI. Epist. 18.

[5] S. Birgittæ Revelationum Lib. VII. cap. 14.

belief that when exile is ordered it is expected to be spent in thus wandering from shrine to shrine in search of pardon.[1] The result of this was not wholly conducive to the peace and quiet of the land, for doubtless the infliction of pilgrimage as penance was sometimes motived by the desire to get rid of troublesome individuals, and although the Carlovingian legislation insured them protection and hospitality everywhere, they did not always obey the rule that they should be unarmed. As early as 789 Charlemagne was awakened to the evil of this, and he deprecated the imposition of pilgrimage as penance, whereby criminals and vagabonds were sent wandering through his dominions, invested with these special privileges; it would be, he said, much better to keep them at home, laboring and serving and performing their penance, and the repetitions of this decree in the collections of the ninth century show how little it effected and how keenly the evil continued to be felt.[2]

In 813 the council of Châlons affords us a view of the disadvantages of the system from a spiritual standpoint. It highly approves of pilgrimages undertaken by advice of the confessor and performed prayerfully, with amendment of life and liberal almsgiving, but it objects to the habit of priests and clerics of evil life who imagine that they can be purged of their sins and fitted for their functions by a simple visit to St. Martin of Tours or the Apostles at Rome; also of laymen who think they can sin with impunity by praying at such places; also of nobles who grind their subjects with exactions under pretext of defraying the expenses of such pious excursions; also of the beggars who make it an excuse for begging, and of the silly folk who believe that the mere sight of the shrine releases them from their sins.[3]

Remonstrances and protests were in vain. The custom continued to extend, and we have seen how in the eleventh century hordes of pilgrims were wandering over the face of Europe. What portion of these were volunteers, and what portion were penitents, it would be

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[1] Pœnit. Ps. Egberti Lib. IV. cap. 16; Pœnit. Columbani B. Cap. 1, 2, 13, 20; Pœnit. Ps. Theodori Cap. 1, 3 (Wasserschleben, pp. 333, 355, 357, 358, 568-9).—Bened. Levitæ Capitul. VI. 421.—Cnuti Legg. Sæcular. Tit. 41.

[2] Capit. Caroli Mag. I. ann. 789, cap. 77.—Bened. Levitæ Capitul. Lib. IV. Append. I. cap. 34; Lib. VI. cap. 379.—Reginon. de Eccles. Discipl. Lib. II. cap. 80

[3] C. Cabillonens. II. ann. 813, cap. 45 (Harduin. IV. 1039).

impossible now to say. We may fairly assume that Robert le Diable of Normandy, who had poisoned his brother Duke Richard III. in 1028, when in 1035, to redeem his sins he undertook a pilgrimage barefooted to Jerusalem and died at Nicæa on his return, did so at the instance of his ghostly counsellors;[1] and doubtless the same may be said of Count Thierry, who in 1066 murdered Conrad, Archbishop-elect of Trèves, and in 1073, moved by repentance, undertook the journey to Jerusalem and was lost at sea.[2] St. Peter Damiani, though he was by no means an inconsiderate advocate of pilgrimage, had no hesitation in imposing it as penance. One of his epistles is addressed to the Marquis Rainiero, to whom he had prescribed in confession the voyage to Jerusalem, and whom he seeks to encourage and to scold for his remissness in undertaking it. When, moreover, in 1059, he reconciled the rebellious Milanese clergy, besides the ordinary penances of terms of years, he imposed on them all the pilgrimage to Rome or to Tours, while Archbishop Guido, their leader, was required to undergo the long and painful one to Compostella.[3] A century later Gratian retained in his compilation some of the penitential pilgrimages contained in the older canons: seduction in the confessional was punishable by twelve years' penance and fifteen years to be spent in pilgrimages, while life-long pilgrimage and degradation were prescribed for breaking the seal of the confession.[4] Not long afterwards we find Alexander III. ordering the Archbishop of Upsala and his suffragans to repress the grave offences prevalent among the people by sending the culprits on the long pilgrimage to Rome.[5] With the rise of the Inquisition this became a favorite among the lighter penalties inflicted by that body upon those who had consorted with or shown favor to heretics. In its severest form, that of service in Palestine against the infidel, or in Constantinople to sustain the tottering Latin Empire, it was frequently employed; indeed, about 1230, the Cardinal-legate Romano prescribed it in Languedoc for all suspected of heresy. This led to the deportation of such multitudes that, some ten years later, the Holy See forbade its con-

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[1] Chron. S. Martin. Turonens.—Orderic. Vital. Eccles. Hist. Lib. III.—Willelmi Malmesburiens. Lib. II. (Dom Bouquet, X. 225, 235, 246).

[2] Bernoldi Chron. ann. 1066, 1073 (Migne, CXLVIII., 1368, 1370).

[3] S. Petri Damiani Lib. VII. Epist. 17; Opusc. V.

[4] Cap. 19 Caus. XXX. Q. ix.; cap. 2 Caus. XXIII. Q. iii. Dist. 6.

[5] Alex. PP. III. Epist. 975.

tinuance for the reason that there was danger that the faith might be corrupted in the land of its origin.[1] When, in 1247 and 1248, Raymond VII. of Toulouse was preparing to accompany the crusade of St. Louis, he procured from Innocent IV. a suspension of this prohibition[2] and thereafter the crusade continued to be occasionally prescribed until the fourteenth century was well advanced.[3] The inquisitorial use of penitential pilgrimages is instructively exhibited in a record of 724 sentences pronounced by the inquisitor Pierre Cella during a circuit in Quercy from Advent, 1241, to Ascension, 1242, the cases being of those who came forward spontaneously and confessed to having held relations with heretics, mostly of the most trivial kind. Nearly all of them were penanced with pilgrimages—some to the nearer shrines of Puy, St. Gilles, etc., but four hundred and twenty-seven were sent to Compostella, and one hundred and eight to Canterbury, the latter being, in all but three or four instances, superadded to Compostella. In addition to these there were seventy-nine ordered to serve in Constantinople for periods of from one to eight years.[4]

In the ordinary routine of the confessional, penitential pilgrimage gradually fell into desuetude with the general laxity prevailing from the thirteenth century onward, except, as we have just seen, in cases of gravity against the Church. It remained nominally, however, as one of the resources of the confessor. In 1247 Johannes de Deo warns us that it should not be imposed on slaves because it deprives the master of their services.[5] Cardinal Henry of Susa still recommends it in his enumeration of fitting penances for opposite vices—pilgrimage for the slothful, maceration, scourging and fasting for the gluttonous and carnal, persecution of heretics for those inclined to heresy, etc., and this is repeated by John of Freiburg.[6] Alfonso the Wise, in his code known as the *Partidas*, distinguishes three kinds of pilgrims—those who go voluntarily, those who have to fulfil a vow,

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[1] Wadding. Annal. Minorum ann. 1238, n. 7.—C. Narbonnens. ann. 1244 cap. 2 (Harduin. VII. 252).

[2] Berger, Registres d'Innocent IV. n. 3508, 3677, 3866 (pp. 527, 556, 586).

[3] Limborch, Lib. Sentt. Inquis. Tolosan. pp. 284–5.

[4] MSS. Doat, XXI. 185 sqq. (See the author's Inquisition of the Middle Ages, II. 30–32).

[5] Jo. de Deo Pœnitentiale, Lib. I. cap. 3 (Migne, XCIX. 1086).

[6] Hostiens. Aureæ Summæ Lib. V. De Pœn. et Remiss. § 60.—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 125.

and those on whom it has been imposed as penance.[1] Astesanus, in the collection of canons compiled from the Decretum of Gratian, which remained as a semi-official Penitential up to the period of the Reformation, includes those which prescribe prolonged terms of pilgrimage; moreover he speaks of pilgrimage as one of the forms of penance and as one of the distinguishing features of public penance.[2] An example of this is seen in the case of Ruggiero da Bonito, in 1319, who, for the murder of the Bishop of Fricento, was required to sail for Palestine at the next general passage, and meanwhile to make three pilgrimages to Rome and one to Compostella.[3] About the same time Durand de S. Pourçain speaks of pilgrimage as a public penance, which can be imposed by any confessor, but he regards it rather as an occasion of scandal than of edification and as virtually obsolete.[4] Yet in 1433, at the council of Bâle, when the Hussites in conference demanded the abrogation of all pilgrimages, the Doctor Gilles Charlier, in arguing for their retention, enumerated eight reasons, of which the eighth was the satisfaction of sins when they were enjoined in penance.[5] While, however, pilgrimage was thus theoretically retained in the penitential armamentarium, it must before this have become virtually disused. Public penance, as we have seen, had substantially disappeared, and in private the increasing strictness of observance of the seal forbade the use of any penance that would betray the penitent, but as recently as 1725, in the instructions of Benedict XIII., it is still enumerated, along with fasting, the discipline and prolonged prayers, as a heavy penance for grave offences.[6]

Of vastly greater moment, in its influence on the growth of the Church in wealth and power, was the form of penance known as almsgiving. I have already alluded (I. pp. 4, 78) to the expiatory

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[1] Partidas, Ley 1, P. I. Tit. xxiv.

[2] Canones Pœnitent. Astesani §§ 3, 32 (Summæ Lib. v. Tit. xxxii); Summæ Lib. v. Tit. xxxi. Q. 2; Tit. xxxiv. Art. 1. Q. 1.

An edition of these penitential canons, with some variants, was printed at Leipzig as late as 1516, in sixteen small quarto pages, evidently for convenient reference in the confessional.

[3] Raynald. Annal. ann. 1319 n. 13.

[4] Durand. de S. Porciano in IV. Sentt. Dist. xv. Q. iv. § 8.

[5] Ægid. Carlerii Orat. (Canisii et Basnage IV. 621).

[6] Instruzione per gli figliuoli, etc. (Concil. Roman. ann. 1725, p. 446).

power attributed to alms in the Old Testament and the early Church. There was so much to recommend it, both from a benevolent and a selfish point of view, that the practice was much more likely to develop than to be outgrown. It is one of the seven modes of pardon enumerated by Origen (I. p. 81), which continued to be repeated for so many centuries, and Cyprian describes frequent almsgiving as liberating souls from death.[1] It was in vain that St. Augustin protested that those who sin repeatedly cannot purchase pardon by repeated almsgiving; his very protest, and a similar one by St. Gaudentius, only show how current was the idea that impunity could thus be bought.[2] Even so severe a moralist as Salvianus admits that sins can be redeemed with money; if there are no sins to be wiped out, there is heaven to be purchased; the sinner must not strive to bargain, he must give all he can or all he has, and this is more imperatively incumbent on the dying.[3] In a similar spirit a sermon, variously attributed to St. Augustin and St. Cæsarius, but probably of somewhat later date, asserts that, except in rare cases of ardent contrition, death-bed repentance is vain unless the sinner bequeaths to the Church a substantial portion of his property.[4] St. Eloi of Noyon tells us that alms not only pray for the sinner but delete the sin.[5] We have seen (p. 59) how inevitably almsgiving tended to take the direction of the Church and its ministers; they were always "the poor," and they were also the natural channel through which the liberality of the sinner might reach the poor, and thus whatever power to bind and to loose they asserted could easily be transmuted into current coin. We have also seen (I. p. 114) how the Manichæan Elect undertook to remit sins in exchange for bread, and similar abuses speedily crept into the Church as soon as the power of the keys was asserted. Isidor of Pelusium reproaches the priest Zozimus for absolving a perjurer in return for the present of a few fish, without requiring reparation made to the injured party,[6] and

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[1] S. Cyprian. de Lapsis XXXV.

[2] S. Augustin. Enchirid. Cap. 70, 75, 77.—S. Gaudentii Serm. XIII. (Migne, XX. 938).

[3] S. Salviani Epist. IX.; Adv. Avaritiam Lib. I. n. 10, 11, 12; Lib. II. n. 12.

[4] S. Augustin. Serm. Append. Serm. CCLVI. Cf. Serm. CCLVII. n. 4 (Migne, XXXIX. 2217, 2220).

[5] S. Eligii Noviom. Homil. III. (Migne, LXXXVII. 606).

[6] S. Isidori Pelusiotæ Lib. III. Epist. 260.

such transactions, under the decent disguise of oblations, must have become habitual when Gregory the Great tells his bishops that they live on the sins of their flocks, that they eat the sins of their people, nor does he blame them for this, but for being silent when they ought to speak boldly in reprehension, and for growing rich on the iniquity of others.[1] Matters were managed more crudely and openly in the British Church of the period, for we are told of King Meurig who, after swearing peace with Cynetu on relics in presence of Bishop Oudoceus of Llandaff, caused him to be treacherously murdered, for which he was duly cursed and excommunicated by the bishops in a synod. He endured this for two years, after which he submitted and asked for penance, when Oudoceus assembled another synod, which imposed on the murderer the penance of ceding four vills to the church of Llandaff, for the redemption of his soul and the repose of that of Cynetu.[2] The early Irish Church shows the same spirit in the regulations for homicide and fornication—the sinner is to perform three years' penance, after which he is to give money to the priest for the redemption of his soul, and a feast to the servants of God when they receive him to communion.[3] Among the Anglo-Saxons, the canons, half secular and half spiritual, of the council of Berghamstede, in 697, show the application of the principle in its crudest form; the price of the peace of the Church is reckoned at fifty sols, and adultery is compounded for, according to the station of the offender, at fifty or a hundred.[4]

The evils arising from such a system could not fail to make themselves apparent. From a spiritual point of view they are pointed out by the council of Châlons, in 813, when it complains that men commit sins purposely, promising themselves impunity through almsgiving; it is true that alms extinguish sins (Ecclus. III. 33), but sins committed to be thus redeemed cannot be thus redeemed; it is as though men were luring God to permit them to sin.[5] From a secular point of view Charlemagne arraigned the greed of his prelates when

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[1] Gregor. PP. I. Homil. XVII. in Evangel. n. 8, 18. "Pensemus ergo cujus sit apud Deum criminis peccatorum pretium manducare et nihil contra peccata prædicando agere."

[2] Spelman Concil. I. 62. Cf. Haddan and Stubbs, I. 125.

[3] Pœnit. Vinniai § 35 (Wasserschleben, p. 116).

[4] C. Berghamstedens. ann. 697, cap. 2, 5, 7 (Harduin. III. 1818-19).

[5] C. Cabillonens. II. ann. 813, cap. 36 (Ibid. IV. 1038).

he asked them whether a man could be said to have renounced the world when he daily sought to increase his wealth by every art, tempting with the bliss of heaven, threatening with the pains of hell and, in the name of God or of some saint, despoiling the ignorant, both rich and poor, so that the heirs, deprived of their inheritance, are driven to robbery through want.[1]

These remonstrances were futile, and we have seen above (pp. 108, 110) how fines continued to be levied as penances—perhaps the most efficient mode of aiding the secular law in the suppression of crime, but sadly degrading to the spiritual claims of the Church. How mercilessly the system was sometimes enforced is manifested in a penance imposed, about 1065, by Alexander II. on a man who had unintentionally caused his brother's death, and had appealed to the Holy See from a penance imposed at home. His whole property is confiscated to "the poor," though he is allowed during life the usufruct of one-half, he is to spend a year in a monastery, to undergo seven years' penance, to abstain from bearing arms and to fast on Fridays until death.[2] In 1080 the council of Lillebonne endeavored to effect a partial reform by prohibiting pecuniary exactions on voluntary penitents, but this was local and transitory, as may be inferred from the praise bestowed on St. Hugh of Grenoble, that although he was accustomed to impose prayer, fasting, and almsgiving on his penitents, the penance he enjoined, whether they were convicted or confessed voluntarily, was not pecuniary.[3] All prelates were not as conscientious as St. Hugh. Reconciliation continued to be sold in the twelfth century as openly as in Wales in the seventh, for when, in 1124, Count Pedro struck Count Alfonso before the portal of the church of Compostella, and, then repenting, came with his wife to Archbishop Gelmirez, confessed his sins and asked for penance, Gelmirez, we are told, imposed on him a fitting penance according to the canons, viz., that he should give a fief to God and Santiago, whereupon Count Pedro made over the monastery of Corespindo to the Church.[4]

There were rigorists who objected to this sale of the power of the

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[1] Caroli Mag. Capit. II. ann. 811. cap. 5.

[2] Alex. PP. II. Epist. 100 (Migne, CXLVI. 1386).

[3] C. Juliobonens. ann. 1080, cap. 42 (Bessin, Concil. Rotomagensia, p. 71).—Guigonis Vit. S. Hugonis Gratianop. cap. 5 (Migne, CLIII. 775-6).

[4] Historia Compostellana, Lib. III. cap. 69.

keys. When Theobald, a rich usurer of Paris, was seized with pangs of conscience, and applied to Bishop Maurice de Sully for relief, the bishop, who was building Nôtre Dame and lost no opportunity of obtaining funds for the work, advised him to contribute to it his ill-gotten gains. He was not satisfied, and asked Peter Cantor for advice, who ordered him to make proclamation that he would refund to all from whom he had received usury. This was done, and after satisfying all claimants he still had a fortune left. "Now," said Peter," "you can give alms," and he further ordered that Theobald should have himself scourged through the streets of Paris, which was duly performed.[1] Men like Peter Cantor, however, were rare. When, in 1191, Cœlestin III. ordered the bishops, when dealing with the Templars and their men, to impose satisfaction salutary to their souls and not pecuniary penalties,[2] it indicates that the current abuses were not small, since so powerful a body as the Templars had to be protected against them. A decree of Gregory IX., embodied in the canon law, shows how purely secular was this phase of penance; blasphemers, he orders, shall do penance at the church-door with a halter around their necks, and in addition be fined from five to thirty sols according to their means—the fines to be collected without mercy through the civil authorities.[3]

It became a recognized rule that penance consists of prayer, fasting, and almsgiving; of these fasting is suited for carnal sins and prayer for spiritual, but the efficacy of almsgiving is universal, and it is fitted for all cases.[4] Prayer is better than fasting, and almsgiving is better than prayer; it is a universal medicine for all sins.[5]

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[1] Cæsar Heisterbacens. Dial. Dist. II. cap. 33. Eleemosynary penances would have been much curtailed had all confessors enforced like Peter Cantor the rule that alms cannot be given from illicit gains—

> Cum furto raptus, cum fœnore Simonis actus,
> De sic possessis eleemosyna non fit ab ipsis.

[2] Löwenfeld Epistt. Pontiff. Roman. p. 244.—Presumably such penances must have been for reserved cases, which could not be treated in the weekly chapters.

[3] Cap. 2 Extra Lib. v. Tit. xxvi.

[4] Constitt. Coventriens. ann. 1237 (Harduin. VII. 286). "Eleemosyna valet per omnia."

[5] Joh. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 123.—"Eli-

It is true that an admirable spiritual definition is given of almsgiving. S. Ramon de Peñafort says that its first duty is giving ourselves to God,[1] and it was extended to cover all works of beneficence and mercy, which were classified as *eleemosynæ corporales* and *eleemosynæ spirituales*,[2] and in this way the Church rendered a service to humanity by inculcating that sin can be redeemed by services rendered to fellow-creatures, but for the most part this teaching was rather theoretical than practical, and the more material view was enforced that well-directed liberality was a satisfactory atonement for sin. It is significant to observe how perfunctorily Astesanus passes over the works of charity and dilates on the giving of money.[3] In fact, the admirable definition of almsgiving was practically invalidated by the very thrifty distinction drawn between spontaneous charity and charity for the redemption of sin. To give from superfluous wealth to the necessitous poor is a duty; its omission is a sin, and its performance is in no sense a work of satisfaction unless performed at the command of the confessor, for what a man is bound to do is not an expiation. Thus charity to the really poor had no sacramental value, and it was pointed out that alms intended to redeem sin and its punishment could be most beneficially bestowed on those whose prayers would secure the speediest pardon.[4] The old restriction which prohibited almsgiving from illicit gains broke down, and though it was upheld by some authorities there were

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mosina completius habet vim satisfactionis quam oratio, oratio quam jejunia. . . . Et propter hoc elimosina magis indicitur ut universalis medicina pro peccatis quam alia."

[1] S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.

[2] The *eleemosynæ corporales* are enumerated in the verse "Poto, cibo, redimo, tego, colligo, condo," and the *spirituales* in "Consule, castiga, solare, remitte, fer, ora."—Astesani Summæ Lib. v. Tit. xxvi. Art. 2.—Durand. de S. Porciano in IV. Sent. Dist. xv. Q. vii. §§ 5, 6.

[3] Astesani Summæ Lib. v. Tit. xxvi. Art. 6, Q. 2.

[4] Ibid. ubi sup.—Vorrillong in IV. Sentt. Dist. XXII.—S. Antonini Summæ P. III. Tit. xiv. cap. 20.

Astesanus recurs to this (Tit. xxvi. Art. 8, Q. 1), "Eleemosyna habet efficaciam . . . ex ipso accipiente in quantum obligatur ad orandum pro illo qui eleemosynam dat."

When the Mendicant Orders arose, their writers naturally designated them as the most desirable recipients.—Alex. de Ales Summæ P. IV. Q. XXXIII. Membr. 1, Art. 2.

others who took the laxer view that the profits of usury and prostitution could be accepted.[1]

It is true that with the relaxation of penance in the thirteenth century, pecuniary satisfaction must have fallen off in the annual confessional, but its most fruitful source continued. This was on the death-bed, and it became a truism among the doctors that there, when ordinary penances had become impossible, pecuniary ones must be imposed, and the lively contrition excited by the nearness of the judgment-seat of God rendered the sinner eager to purchase salvation by the distribution of the wealth that was slipping from his grasp. The customary instruction to confessors, down to modern times, has been to tell the dying penitent that if he were well he would be subject to so many years' penance; as he is sick it will not be imposed, but if he dies he must cause so much to be given as penance.[2] This became so customary that in some places it assumed the form of a recognized exaction; in 1222 Honorius III. upbraids the bishop and clergy of Lisbon for their greed in refusing the last sacrament unless the dying sinner would bequeath a portion—usually a third—of his property to the Church.[3] Usually the transaction was more decent, and it is well known how enormously the possessions of the Church were increased from this source.[4]

This mercantile spirit was the inevitable product of the system and explains the general consensus of opinion that of all works of satisfaction almsgiving is the most efficacious and the best adapted to all cases,[5] though the saintly S. Carlo Borromeo hesitates to subscribe

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[1] Astesani Lib. v. Tit. xxvi. Art. 4, Q. 2.—For the severer view see S. Bonaventura in IV. Sentt. Dist. xv. P. ii. Art. 2, Q. 1.—Durand. de S. Porciano in IV. Sentt Dist. xv. Q. vii. § 7.

[2] Johann. de Deo Pœnitentiale, Lib. I. cap. 2; Lib. v. cap. 24.—Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remiss. § 45.—Pœnit. Civitatens. cap. 149 (Wasserschleben, p. 705).—S. Bonavent. Confessionale, cap. IV. Partic. iii.—Synod. Nemausens. ann. 1284 (Harduin. VII. 911).—Astesani Summæ Lib. v. Tit. xv.—S. Antonini Confessionale fol. 70.—Bart. de Chaimis Interrog. fol. 106*b*.—Reginaldi Praxis Fori Pœnit. Lib. VII. n. 41.

[3] Ripoll, Bull. Ord. Prædic. VII. 5.

[4] See, for instance, the *Historia Compostellana* Lib. III. cap. 2, 3, 19, for the vast accessions to the property of the church of Compostella secured in this way by Archbishop Gelmirez.

[5] S. Antonini Summæ P. III. Tit. xiv. Cap, 20 § 3.—Summa Sylvestrina s. v.

to this and says that almsgiving is not to be imposed upon the poor, nor fasting on those who live by their daily labor, but almsgiving is a proper corrective for sins of avarice and fasting for those of the flesh.[1] In the Roman Ritual the only restriction on the imposition of pecuniary penance is that the priest shall not retain the money himself, and this is presumably the established rule.[2]

An indirect form of pecuniary penance, financially attractive to the confessor, was the imposition of a certain number of masses, to be paid for by the penitent, when they might be celebrated by the priest who imposed them. Anciently there was no limit on the number of masses which a priest could perform. An old Penitential, it is true, specifies seven daily as the number for himself, but adds that on feast days, when there is a demand for them, he can officiate as often as he is asked, and thank God for the religious zeal of his people.[3] Subsequently there arose a tendency to curtail the privilege. An English regulation of about the year 1000 imposes a heavy penalty for celebrating more than thrice daily.[4] About 1065 Alexander II. went further and expressed an opinion that it is wrong to celebrate more than once a day for profit, though an additional mass for the dead is allowable if needed.[5] Towards the close of the twelfth century Peter Cantor deplores the difficulty of enforcing the rule of a single daily mass and three on Christmas; the priests, eager for the oblations, treated every day like Christmas, and would not submit to

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Satisfactio § 8.—Aurea Armilla s. v. *Satisfactio* n. 3.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1242; Cf. n. 1267.

This moral was taught in popular legends as well as in the theologies. Thus Lippomano relates how a lady, whose daughter had been dishonored by the Emperor Zeno, frequented the church of the Virgin and besieged her with prayers for revenge. At length the Virgin appeared to her and said that she had several times proposed to avenge her, but had found it impossible in consequence of the liberal almsgiving of Zeno.—Giulio Folco, Effetti mirabili de la Limosina, p. 11 (Roma, 1586).

[1] S. Caroli Borrom. Instruct. Ed. 1676, pp. 68–9.—Estii in IV. Sentt. Dist. XV. § 14.

[2] Ritualis Roman. Tit. III. cap. 1.—Reuter, Neoconfessarius instructus, n. 16.

[3] Pœnit. Vindobonens. *a*, cap. 45 (Wasserschleben, p. 420).

[4] Law of the Northumbrian Priests n. 18 (Thorpe, II. 293).

[5] Alex. PP. II. Epist. CXXXII (Migne, CXLVI. 1410).

the limitation.[1] Even a century later Aquinas, in restricting the layman to one communion a day, says that the priest is a public character, and as such can celebrate repeatedly if necessary.[2] When the confessor thus could impose a number of masses as penance, celebrate them himself and make the penitent pay for them, the confessional evidently was a source of profit liable to be industriously exploited. How the opportunity could be improved by a speculative priest is exhibited in a story told by Cæsarius of Heisterbach concerning Einhardt, pastor of Soest. A parishioner in his lenten confession admitted incontinence with his wife during that holy time, and was required to pay eighteen deniers for as many masses with which to wash out his sin. Then came another who in response to the interrogatory asserted that he had preserved the strictest continence; he was told that he had committed a mortal sin in neglecting to beget a child, and was required to pay the same amount for masses wherewith to placate God. The men were obliged to sell their harvests in order to raise the money; chancing to meet on the market-place they compared notes and complained to the dean and canons of St. Patroclus, but to no purpose save exposing Einhardt, for Cæsarius speaks of him as still priest of Soest.[3]

Scandals such as this were not calculated to render popular the confession which the Church was so earnestly inculcating on the faithful, and efforts were made to check the practice of enjoining masses to be celebrated by the confessor—efforts of which the constant repetition shows how slackly they were obeyed. The earliest instance I have met of this is a canon of the council of York, in 1195, which positively prohibits priests from ordering through greed their lay penitents to have masses celebrated.[4] Almost contemporary with this was a decree of Eudes of Paris that no one should celebrate a mass prescribed by himself, and, in 1200, the council of London says that to suppress priestly cupidity it forbids the imposition of masses on all penitents who are not themselves priests.[5] It is unnecessary to do more than refer to the repeated injunctions of this

[1] P. Cantor. Verb. Abbrev. cap. 27, 28.
[2] S. Th. Aquin. in IV. Sentt. Dist. XIII. Q. ii. Art. 2 ad 1.
[3] Cæsar. Heisterbac. Dial. Dist. III. cap. 40.
[4] C. Eboracens. ann. 1195, cap. 3 (Harduin. VI. II. 1931).
[5] Odonis Paris. Constitt. cap. 6; C. Londiniens. ann. 1200, cap. 4 (Harduin. VI. II. 1931, 1941).

kind which during the thirteenth and fourteenth centuries show how ineradicable was the abuse.[1] To evade this continued pressure, without surrendering the gains, there arose a custom under which neighboring priests would enter into a kind of partnership and agree to send their respective penitents to each other for the celebration of the masses which they would enjoin, and this traffic in the sacrament of the altar was as difficult to repress as the practice for which it was a substitute.[2] A still more ingenious method of eluding the prohibition was to enjoin on the penitent that he should have a certain number of Epistles read, for which of course he would have to pay, although they had not the propitiatory power of the mass.[3]

Finally, however, the Church seems to have yielded and tacitly permitted this speculation in the confessional. Even S. Carlo Borromeo only warns the priest that if he enjoins masses as penance, when he celebrates them he must not apply them to himself or to his church or monastery, which assumes that the confessor is expected to sing the masses which he himself prescribes, and the only thing to guard against is that he shall not defraud the penitent of the benefit paid for.[4] Henriquez is more rigid and says that the confessor ought not to celebrate the masses which he orders lest he be suspected of greed.[5] Occasionally still there is a voice raised against the practice. The council of Cologne, in 1860, and that of Utrecht, in 1865, forbade the confessor from imposing as penance the price of masses to

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[1] Constitt. R. Poore Saresberiens. ann. 1217, cap. 30 (Harduin. VIII. 97).—C. Anglican. sine anno (Ibid. 307).—Constitt. Waltheri Dunelmens. ann. 1255 (Ibid. 492).—C. Claromont. ann. 1268, cap. 5 (Ibid. 599).—Constitt. S. Edm. Cantuar. circa 1236, cap. 17 (Ibid. 270).—C. Wigorniens. ann. 1240, cap. 17 (Ibid. 336).—Johann. de Deo Pœnitentiale, Lib. v. cap. 22.—Statut. Eccles. Cenomanens. ann. 1247 (Martene Ampl. Collect. VII. 1380).—Statut. Synod. Remens. Loc. II. Præcept. iv. (Gousset, Actes etc. II. 540).—C. Suessionens. ann. 1405, cap. 43 (Ibid. 631).—Statut. Joan. Nannetens. ann. 1389, cap. 12 (Martene Thesaur. IV. 985).

[2] Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remiss. § 54.—C. Mogunt. ann. 1281, cap. 8 (Hartzheim III. 665).—C. Coloniens. ann. 1280, cap. 8 (Harduin. VII. 828).—Statut. Leodiens. ann. 1287, cap. IV. n. 22 (Hartzheim III. 688).—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 127.—Astesani Summæ Lib. v. Tit. xxxi. Q. 2.

[3] Weigel Claviculæ Indulgentialis cap. 7.

[4] S. Carol. Borromei Instruct. p. 69.

[5] Henriquez Summæ Theol. Moral. Lib. VI. cap. xxi. n. 8.

be celebrated or from receiving it if tendered, the reason given being the prevention of scandal and of the suspicion of filthy gain.[1]

The chief interest in this review of the penitential system thus far lies in the evidence which it affords of the influence exercised upon the Church by its converts, in the revolution effected by the Barbarian overthrow of the Roman Empire and during the painful efforts of society to reconstruct itself and assimilate the new elements thus introduced. We have still to investigate the further changes which followed on the development of the new theology in the twelfth century, but, before abandoning the darker period of the middle ages, we must pause for a moment to glance at some methods of mitigating the harsh severity of the ancient penance, which opened to the Church a still larger field for the profitable employment of the power of the keys than those which we have just examined.

[1] C. Coloniens. ann. 1860, Tit. II. cap. 14; Synod. Ultraject. ann. 1865, Tit. IV. cap. 8 (Coll. Lacens. V. 351, 831).

CHAPTER XVIII.

REDEMPTION OF PENANCE.

THE extreme harshness of the penance provided in the Penitentials was by no means without mitigation. Allusion has been made above (I. p. 26) to the discretion allowed to bishops in the early Church to modify and temper the penalty as might seem best for the benefit of the penitent. A canon of St. Basil the Great says that the periods prescribed are not intended to be applied to every case, but are to be varied at the discretion of the priest, for God looks to the sorrow and not to the measure of time, and to abstinence from sin rather than to abstinence from food; and this dictum, attributed to St. Jerome, was carried through the collections of canons into Gratian.[1] St. Isidor of Seville echoes this, and Alcuin cordially agrees with him.[2] In this spirit many of the Penitentials and *Ordines* warn the confessor to bear in mind the age, sex, condition and station of each penitent, as well as to search his heart deeply, and then to impose such penance as judgment may dictate.[3] In special canons, also, discretion is frequently given to modify the penance prescribed.[4] Indeed, the council of Worms, in 868, especially orders that diligent investigation be made into each case and

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[1] S. Basil. Epist. ad Amphiloch. cap. 2.—Ps. Alcuini de Eccles. Officiis cap. 13.—C. Metens. ann. 859, cap. 10.—Burchardi Decr. XIX. 31.—Ivon. Decr. XV. 49.—P. Lombard. Sentt. Lib. IV. Dist. XX. § 3.—Gratian. cap. 86 Caus. XXXIII. Q. iii. Dist. 1.

[2] S. Isidor. Hispalens. de Eccles. Officiis Lib. II. cap. xvii. n. 2, 7.—Alcuini de Virtutibus et Vitiis cap. 13.

[3] Pœnit. Bedæ cap. 1; Pœnit. Vindobonens. *a*, Judicium Patrum; Pœnit. Bigotian. Prolog.; Pœnit. Cummeani Prolog.; Pœnit. XXXV. Capit. cap. 20 (Wasserschleben, pp. 220, 418, 441, 462, 517).—Garofali Ord. ad Dandam Pœnitentiam p. 12.—Morin. de Pœnit. Append. p. 25.—Pez Thesaur. Anecd. II. II. 613, 631.—Reginon. de Eccles. Discipl. Lib. I. cap. 300.

[4] Pœnit. Bedæ cap. viii. § 8; Pœnit. Ps. Ecberti Lib. I. cap. 1, 2, 8 etc. (Wasserschleben, 229, 323–5).—Bened. Levitæ Capitul. Lib. V. cap. 132; Lib. VI. cap. 5; Lib. VII. cap. 6, 20, 21, 30, 36.—Isaac. Lingonens. Capit. Tit. I. cap. 26, 27, 28, 29, 30 etc.

careful consideration be given to the degree of the sinner's repentance, after which the penance is to be imposed according to the judgment of the priest, while, in 895, the council of Tribur leaves to his discretion all cases not specially provided for.[1]

Naturally in time this discretional power, with its enormous advantages to the priest, virtually superseded the prescriptions of the Penitentials, although they were still held to be in force. In 1066, Alexander II. writes to the Bishop of Auvergne that the canons are to be strictly observed, but mercy is not to be denied to the repentant, and the pastor is rather to observe the degree of contrition than the measure of time.[2] A formula of Bobbio, of probably the same period, is even more decisive, for, after enumerating the canonical penances for the several sins, it proceeds to tell the confessor that he can impose what penance he thinks best, because it rests wholly in his discretion.[3] It need not surprise us, therefore, by the middle of

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[1] C. Wormatiens. ann. 868, cap. 25; C. Triburiens. ann. 895, cap. 34, 37 (Harduin. V. 741; VI. I. 450–1).

[2] Löwenfeld Epistt. Pontiff. Roman. p. 56.—"Quæ in canonibus determinata est pœnitentia est ommino observanda. Sed misericordiæ gratia, quæ nulla lege concluditur, nullo temporis spacio cohercitur, non est pie pœnitentibus deneganda. Pastoralis itaque discretionis est uniuscujusque contrictionem cordis et doloris affectum magis quam temporis spatium attendere, et pro meritis operum fructusque pœnitentiæ misericordiæ oleum infundere."

Another epistle of Alexander II. (Epist. 141—Migne, CXLVI. 1414) affords an illustration of the shrewdness with which the Holy See assumed to itself the control of all the powers of the Church. Replying to an inquiry from Odo, Archbishop of Trèves, Alexander graciously, in view of the dignity of his see, which approaches that of Rome, grants him greater power of augmenting and diminishing penance than is possessed by any other prelate of Gaul or Germany—thus implying that the authority inherent in his office was a delegated power from the Apostolic See. The groundlessness of the claim is seen in an epistle of Gregory VII. (Regest. I. 30) to the Archbishop of Salzburg, in 1073, requesting him to use his power of mercy in favor of a penitent who had come to Rome for a diminution of his penance, and who is thus referred back to his prelate.

It was a frequent custom for bishops, when imposing years of pilgrimage, to furnish the penitent with letters, in which all bishops to whom they were presented were authorized to diminish it on evidence of contrition and amendment. See Lanfranci Epist. 9, and the case referred to above (p. 120).

[3] Muratori Antiq. Ital. Diss. LXVIII. (T. XIV. p. 58). "Confessio peracta imponat ei sacerdos jejunium secundum quod melius fuerat, quia ipsius arbitrio consistit modus pœnitentiæ."

the twelfth century, to find Cardinal Pullus making no reference to the penitential canons, but instructing the priest to consider carefully what penance he shall impose and prudently adapt it to the case.[1] Yet, as has been seen by various examples cited above, thus far this arbitrary discretion did not greatly modify the severity of the penances imposed; but the profound change came, as will appear hereafter, from the introduction of the sacramental theory and voluntary satisfaction.

In one respect, at least, the discretion thus permitted to the priest worked inevitable evil. Even in the early Church the power of admitting to or refusing reconciliation had a speculative value, recognized and exploited by unworthy prelates. The Apostolic Constitutions allude to bishops of easy conscience who for filthy gain permit sinners to remain in the Church, and this in a manner to show that such scandals were by no means unknown.[2] Gregory the Great plainly tells some of his bishops that they sell spiritual graces and accumulate lucre from the sins of others.[3] This was not an abuse likely to diminish in the confusion of the succeeding centuries, and it must have been indeed notorious when, in 787, the seventh General Council considered it to require public denunciation.[4] The great council of Paris, in 829, inveighed bitterly against the greed and avarice of the priesthood, who seized all opportunities of getting money, and it applied the terrible invective of Ezekiel to those who for gain or favor or fear misused their power in the imposition of penance.[5] Even in public penance, over which they had no direct jurisdiction, they could obtain bribes by not reporting sinners to their bishops, or by the abuse of their function of recommending them for reconciliation, and that this was by no means unknown is seen by the stern prohibition uttered, in 852, by Hincmar, which was frequently repeated and finally embodied in the canon law.[6] The bishops were equally liable to these animadversions, for the

[1] R. Pulli Sentt. Lib. VI. cap. 52. [2] Constitt. Apostol. Lib. II. cap. 9.

[3] Gregor. PP. I. Homil. XVII. in Evangel. n. 13.

[4] C. Nicæn. II. ann. 787, cap. 4 (Harduin. IV. 487).

[5] C. Parisiens. ann. 829, Lib. I. cap. 13, 32 (Ibid. 1305,1317).

[6] Hincmari Capit. cap. 13.—C. Turonens. ann. 1163, cap. 7 (Harduin. VI. II. 1601).—Compilat. I. Lib. V. Tit. ii. cap. 13.—Cap. 14 Extra Lib. V. Tit. iii. Ivo of Chartres gives it (Decr. XV. 112), attributing it to Alexander I. Cf. Jaffé, Regesta, p. 919.

council of the Aquitanian prelates, held at Limoges in 1032, pronounced sentence of suspension, during the pleasure of their fellow-bishops, on all who, for love or money, should not penance those deserving it, or should grant absolution improperly.[1] In 1050 the council of Rouen contented itself with threatening with deposition the priests who through avarice increased or diminished penances.[2] It was well thus to express detestation of such crimes, but they were from their very nature secure from detection, and could be perpetrated with virtual immunity, so that it was not to be expected that they would diminish when the power of the keys became defined and established. Alain de Lille speaks of them as though their existence everywhere was universally recognized,[3] and Cæsarius of Heisterbach talks of priests who would sell absolution for a chicken or a pint of wine.[4] Even when there was not such shameless bargain and sale, it seems to have been understood that liberality in the matter of fees would secure easy penance, for Cardinal Henry of Susa describes the way in which some confessors would eye the purse of the penitent and the motion of his hand, and grade their mercy accordingly—such mercy, he says, is not spiritual but bursal.[5] Even St. Bonaventura feels it necessary to warn his Franciscan brethren that they must not be takers of gifts or treat the rich and the poor differently.[6] With the spread of indulgences and the lowering of their price there would naturally be less temptation to both penitent and confessor, but, in 1441, Dr. Weigel speaks of such transactions being still frequent.[7] Even, in 1690, Alexander VIII. had to condemn a proposition which asserted that the parish priests could reasonably suspect confessors of the Mendicant Orders of imposing trivial penance for gain, and the Jesuit Viva, in defending his order, retorts that the parish priests are equally open to the suspicion of making such illicit profits.[8]

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[1] C. Lemovicens. ann. 1032 Sess. II. (Harduin. VI. I. 886).

[2] C. Rotomagens. ann. 1050, cap. 18 (Ibid. 1016).

[3] Alani de Insulis Sentt. cap. 27; Lib. Pœnitential. (Migne, CCX. 246, 292).

[4] Cæsar. Heisterbac. Dial. Dist. III. cap. 41.

[5] Hostiens. Aureæ Summæ Lib. V. De Pœn. et Remiss. § 53.

[6] S. Bonaventuræ Confessionale, Cap. I. Partic. 6.

[7] Weigel Claviculæ Indulgentialis cap. 7.

[8] Viva in Prop. XXI. Alexandri PP. VIII.

A further relief from the harshness of the penitential canons was found in the system of commutations, which early established itself. These were of various kinds. For laymen they usually consisted of pecuniary redemptions; for clerics and monks, of religious exercises and the discipline, but there seems to have been no absolute rule, and the variations in the prescriptions given are so numerous that it would be idle to enumerate them all.[1] Some ancient Irish canons tell us that a year's penance can be redeemed by spending three days in the tomb of a holy dead man, without food, drink or sleep, but with psalmody and canonical prayer, or by twelve *triduanæ*, or by a hundred days on bread and water, with prayer every hour.[2] The Penitential of Theodore specifies twelve *triduanæ* as the redemption for a year, and adds that in the case of sickness, rendering the penitent unable to fast, the price of a male or female slave will serve, or the surrender of half his possessions, and, if he has defrauded any one, making restitution fourfold.[3] If in these earlier regulations there is any scruple manifested as to redeeming penance with cash it was speedily overcome, for this was inevitable in the state of society for which the Penitentials were framed. It was already a recognized rule in the Church that, when bodily infirmity interfered with fasting, the latter could be commuted with almsgiving,[4] and this principle coincided with the ancestral customs of the new converts. Among the Barbarians personal punishments for freemen were unknown to the laws; the rude codes which served their purposes were merely lists of payments for all manner of crimes, to

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[1] The curious student who desires to investigate these details will find ample materials in Wasserschleben's *Bussordnungen*, pp. 229–30, 244, 246, 276–8, 303, 340–1, 348, 362, 420, 462, 495, 498, 547, 671–3. Also Halitgari Lib. Pœnit. (Canisii et Basnage II. II. 129); Pœnitent. Roman. Tit. IX. cap. 25, 31 (Tarracone, 1582); Muratori Antiq. Ital. Diss. LXVIII. (T. XIV. pp. 31, 41); C. Triburiens. ann. 895, cap. 54–58 (Hartzheim I. 407).

[2] Canones Hibernienses II. cap. 3, 6, 11 (Wasserschleben, pp. 139, 140).

The *biduana* and *triduana* were two and three days' fast of a rigid character, sometimes sharpened by the discipline, of which a dozen blows, more or less, were given. Pœnit. Ecberti, cap. 15; Pœnit. Ps. Bedæ cap. 43 (Wasserschleben, pp. 246, 277).

[3] Pœnit. Theodori Lib. I. cap. vii. § 5 (Ibid. p. 191).—Collect. Antiq. Canon. Pœnit. (Martene Thesaur. IV. 55).

[4] Joh. Cassiani Collat. XX. cap. 8.

satisfy the claims of the injured party. To men bred in such conceptions, the fasts and disabilities imposed by the canons were simply punishments, and punishments of a most humiliating character, to which they could scarce be expected to submit at the bidding of a priest. That the principle of the *wer-gild* or blood-money should be applied to penance was therefore natural, nor can we be surprised that the Church should have acquiesced when it was, if not the sole, at least the customary recipient of the commutation. We have seen that penitential almsgiving was commonly construed to mean payments to the priests or to the Church, and it was natural that the same definition should be given to commutation. Thus where a year's penance is allowed to be redeemed with twenty-six sols, the direction is to give it to the Church or to the poor,[1] and we cannot doubt which alternative would be more likely followed. The system, therefore, spread and flourished to the mutual satisfaction of all parties.

A Penitential of the ninth or tenth century introduces its list of commutations with an apology setting forth that in these times we are unable to persuade penitents to undergo the long terms prescribed in the canons, wherefore they should be induced to wash out their sins by other pious works—prayers and psalmody and vigils and almsgiving and lamentations, standing at the cross, often bending the knee, showing hospitality to the poor and to pilgrims and fasting.[2] This would seem applicable less to the laity than to the clergy, for whom a system of commutation, which had wide currency under the name of St. Boniface, sets forth how seven years' penance can be dispatched in one year. A *triduana* satisfies for thirty days; or, in psalmody, a hundred and twenty psalters for twelve months, or fifty psalms and five Paternosters for a single day, or a psalter and fifteen Paters for three days; or, in lieu of psalmody, a day can be commuted for a hundred prostrations in the oratory, with a *miserere* and *dimitte delicta mea*. Celebrating a mass redeems twelve days, ten masses, four months, twenty masses, nine months, thirty masses, twelve

[1] Pœnit. Ps. Bedæ cap. v. § 2 (Wasserschleben, 262).—Pœnit. Ecberti cap. vii. § 4 (Ibid. 238).—Burchardi Decr. XIX. 75. Cf. Reginon. de Eccles. Discipl. Lib. I. cap. 299.

[2] Pœnit. Ps. Theodori, De Pœnitentiarum Diversitate (Wasserschleben, p. 621).

months.[1] Evidently for a priest, with an unlimited faculty of celebrating mass, the penitential canons had few terrors. Laymen also could have the benefit of this by hiring a priest to celebrate for them, an arrangement which could not fail to be constantly utilized, in view of its advantage to both classes.[2]

From the accumulated commutations and redemptions, spiritual and financial, a selection was made which became generally accepted. As set forth by Regino of Pruhm in his authoritative compilation, and substantially adopted by Burchard of Worms, it states that if the penitent is unable to fast he can, if rich, buy off seven weeks for twenty sols, if less wealthy, for ten sols, if very poor, for three sols, the money to be used for the redemption of captives or to be given to the poor or to the priest. Or a month can be commuted with 1200 psalms recited on the knees, or 1680 otherwise, and a week for 300 psalms. He who does not know the psalms and cannot fast can for twenty-six sols redeem a year to be spent on bread and water, but he must fast on Wednesdays till noon and on Fridays till vespers, and every three weeks weigh what he eats and give half as much in alms. The price of a day is one denier, or the whole psalter in summer; during the rest of the year fifty psalms, though some substitute twelve stripes. For a three years' penance the redemption for the first year is twenty-six sols given in charity, for the second twenty, for the third eighteen, or sixty-four in all. Then follow the clerical commutations, nearly the same as those of St. Boniface.[3]

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[1] Pœnit. Ecberti cap. 16 (Ibid. p. 246).—Bonifacius de Pœnit. (Migne, LXXXIX. 887).

Another scheme of commutation is as follows:

Twelve *triduanæ* with three whole psalters and three hundred psalms commute a year's penance.

Twenty-four *biduanæ* with three psalters commute a year's penance.

Seventy-six psalms, with a *venia* (100 genuflections) at night, and 300 *palmatæ* commute a *biduana*.

One hundred psalms and a *venia*, with 300 *palmatæ*, commute a *triduana*.

One hundred and twenty special masses, with three psalters and 300 *palmatæ* commute 100 gold sols in alms.—Pœnit. Bedæ cap. 10 (Wasserschleben, p. 229).

[2] MS. Bobbiens. (Muratori Antiq. Ital. Diss. LXVIII.; T. XIV. p. 42). Burchard, however (Decr. XIX. 21), only grants a single day's remission for a mass, and requires the penitent to be present to offer the bread and wine to the priest and to join in the prayers.

[3] Reginon. de Eccles. Discipl. Lib. II. cap. 438–46. Cf. Pœnit. Ecberti cap.

It is evident from these formulas that, while the poorer clergy reduced their penances by spiritual exercises or macerations, the laity and the richer prelates who could afford it escaped by the payment of money. This is well exhibited by St. Peter Damiani, who tells us that in the monasteries a year's penance was redeemable with a thousand stripes, while in the severer order of Camaldoli three thousand, with psalmody, were required;[1] but when, in 1259, he reconciled the rebellious Ambrosian Church to Rome, besides the pilgrimages alluded to above, Archbishop Guido assumed a hundred years of penance, redeemable at a certain sum of money per year, and to the lower ranks of the clergy were assigned penances of five or seven years, to be settled with definite portions of almsgiving and psalmody.[2] A converse process to this was adopted by the synod of Lillebonne, in 1080, which illustrates the assimilation of secular and

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xiii.—Burchard. Decr. XIX. 11–25, where it is credited to the *Pœnitentiale Romanum.*

An older formula, which has less of the odor of lucre about it, gives the following redemption for a seven years' penance. For the first year on bread and water, twelve *biduanæ;* for the second, twelve times fifty psalms sung on the knees; for the third year, after a *biduana*, let him, on a high festival, sing the psalter standing motionless; for the fourth year, three hundred blows with rods on the bare skin; for the fifth, let him weigh what he eats and give as much in alms; for the sixth, let him redeem himself at his *wer-gild* and give it to the injured party or his heirs; for the seventh, let him abandon evil and do good. He who cannot or will not do this, let him perform what the Pœnitential directs.—Pœnit. Bedæ, cap. 10 (Wasserschleben, 229–30).

This seems to mix lay and clerical penance together, but its application to the laity is rendered clear by a final remark that he who cannot recite the psalms can hire a holy man to do it for him, so that the psalmody is reduced to terms of current coin. So also in Pœnit. Cummeani (Ibid. p. 463).

[1] S. Petri Damiani Lib. VI. Epist. 27; Ejusd. Vit. SS. Rodulphi et Dominici cap. 8. He proceeds to show that, as a thousand blows occupy the time required for singing ten psalms, and as the psalter contains a hundred and fifty psalms, it is equivalent to five years' penance. S. Dominicus Loricatus would often prescribe for himself a hundred years of penance and redeem it in this manner. Elsewhere he tells us (Opusc. 50, cap. 14) that he knew of a widow who had redeemed a hundred years of penance with twenty psalters, while undergoing the discipline.

[2] S. Petri Damiani Opusc. V. (Migne, CXLV. 97–8). If the Archbishop's penance was redeemed upon the basis stated by Ivo of Chartres (Decr. XV. 205), of a hundred sols per annum, it amounted to the enormous sum of 10,000 sols or 500 pounds.

spiritual affairs. A long list of crimes is given, including infractions of most of the Decalogue, for which the criminal is required to compound by payments to the bishop, but it is added that if he will come forward and confess, fitting penance will be imposed and no money be exacted.[1]

The demoralization inseparable from this system of purchasing salvation elicited at least one protest. In 747 the council of Clovesho denounced the whole principle of commutations as a new invention of the worst import, as they were generally and popularly considered to be a licence to sin with impunity. Almsgiving and psalmody and genuflections, it says, are valuable adjuvants to penance but not substitutes. It is allowable for sinners to ask holy priests to pray for them, but if anything is given or promised for this it only adds sin to sin. No matter what works of the kind are assumed, the penance enjoined by the canons must be performed, for without it there is no remission of sin. The people must be made to understand this, for the spread of the pernicious doctrine was recently shown in the case of a wealthy man seeking early reconciliation for a great crime, who affirmed in his letters that it had been so far expiated, by almsgiving and the fasting and psalmody of others, that if he should live for three hundred years he had satisfied for the whole of them in advance, though personally he had fasted little if any. If this can be, the council pertinently asks, why did Christ say that it is difficult for the rich man to enter the kingdom of heaven?[2] This protest was unheeded; the custom developed, as was inevitable, when it was so satisfactory to both parties to the transaction, and the mercantile spirit which engendered it and was engendered by it is visible in the warning to bishops not be too eager for money at ordination or at consecration, or at penance, or in any wise to gain wealth unjustly,[3] while Bishop Ahyto of Bâle contents himself with cautioning his priests that the money which they gain in this manner should not make them proud, but rather fearful of offending.[4]

In individual cases it is not always easy to distinguish between

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[1] Synod. Juliobonens. ann. 1080, cap. 13 (Harduin. VI. I. 1600).
[2] C. Cloveshoviens. ann. 747, cap. 26, 27 (Harduin. III. 1958–60).
[3] Institutes of Policy, X. (Thorpe, II. 317).
[4] Ahytonis Capitulare cap. 20 (D'Achery, I. 585).

pecuniary penance imposed and pecuniary redemption of penance, as the difference between them was sometimes rather formal than actual, and the result was the same, though they sprang from different principles. Thus in the last chapter we have seen how Oudaceus, Bishop of Llandaff, secured from King Meurig four vills in the guise of penance. Soon afterwards the thrifty bishop obtained other concessions as a redemption, when King Morgan swore peace with his uncle Fioc, under the condition that if one should slay the other he should not compound for the murder but should spend his life in pilgrimage. Morgan killed Fioc and applied to Oudaceus for pardon; a synod was assembled which imposed some penance and allowed Morgan to redeem the pilgrimage by ceding certain rights to the see of Llandaff. Then King Gwaednecth killed his brother Merchion, for which Oudaceus excommunicated him. After enduring it for a year he applied for reconciliation, and was sent in penance on a year's pilgrimage to Britanny. He returned before the year was out and redeemed the unexpired time with four vills granted to the see.[1]

We see from this that there were redemptions outside of the regular tariffs formulated in the Penitentials, for the Church by no means confined itself to fixed limits. The wide range which redemptions might take is illustrated by the canons framed under the influence of St. Dunstan towards the end of the tenth century. Penances, we are told, are devised in various ways and a man may redeem much with alms. Rich men can raise a church to the glory of God and endow it with lands so that holy men can there minister to God and pray for them; or they can build bridges, help the poor, manumit slaves, and seek intercession with masses, while poorer men can visit often the churches with alms, and all should mortify the flesh and chastise the spirit.[2] This method of redemption had the high sanction of papal authority, for in 1065 we hear of Alexander II. authorizing the consecration of a monastery built by Robert Guiscard, at command of Nicholas II., for the remission of his numerous crimes, and in 1137, at the bidding of Innocent II., the Cistercian abbey of Cer-

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[1] Spelman Concil. I. 63.

[2] Canons under King Edgar: Of Penitents, chap. 14, 16 (Thorpe, II. 283–5). At the same time these canons give a tariff of redemptions—one penny or 220 psalms for a day's fast; a year's fast with thirty shillings; a seven years' fast can be dispatched in a year by daily singing the psalter twice, with fifty psalms at evening (Ibid. Chap. 18, 19, pp. 285, 287).

camps was founded by Count Hugues de Camp-d'Avène in partial commutation of the penance incurred for the burning of the town of St. Riquier.[1]

So thoroughly had this system of redemptions been established by the eleventh century that St. Peter Damiani complains that no layman would endure to fast three days in the week, and that either redemptions must be abolished or the penitential canons be cast aside as obsolete.[2] Yet Damiani himself shows how the two were made to harmonize, when he speaks of the lands of the Church acquired through release from penance proportioned to their value.[3] The learned and pious Muratori describes how this was done. When the noble, perhaps stretched on a sick bed, would seek to discharge his conscience of the accumulated crimes of years, after his confession was finished the priest would produce the canons and his ink-horn and proceed to foot up the years of penance incurred. The aggregate would be appalling, and the redemption at the current rate would represent an amount far beyond the means of the penitent to command on the spot, for ready money was scarce in those times. A transaction would be suggested by which an equivalent in lands would be accepted by the church or abbey, perhaps leaving to the owner the usufruct during life, and both parties would be satisfied with the bargain.[4] Perhaps even, if the land ceded were especially

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[1] Löwenfeld, Epistt. Pontiff. Roman. p. 51.—Gousset, Actes etc., II. 221.

[2] S. Petri Damiani Lib. I. Epist. 15.

[3] Ibid. Lib. IV. Epist. 12. Cf. Lib. V. Epist. 8.

[4] Muratori Antiq. Ital. Diss. LXVIII. (T. XIV. pp. 65-7). A significant preamble to a charter granted in 1032 to the Monastery of Casa Aurea recites—"Quia cum quadam die cogitare cœperimus qualiter impii et peccatores qui peccata sua redimere negligunt in illa pœna perpetua cum Diabolo damnabuntur; et qualiter justi et electi Dei in illa æterna beatitudine cum Domino gloriabuntur, subiter respexit nos divina pietas et compunctum est cor nostrum et cum timore et æstuatione cordis cœpimus anxie quærere consilium a sacerdotibus et religiosis viris qualiter peccata nostra redimere et iram æterni judicis evadere possemus. Et consilio accepto quod nihil sit melius aliud inter eleemosynarum virtutes quam si de propriis rebus et substantiis nostris in monasterio dederimus et cœpimus quærere intra nosmetipsos quem aptum locum invenire possemus; et subito Deo concedente invenimus aptum locum intra territorium Teatinum in locum qui nominatur Olegato," etc.—Chron. Casauriens. ann. 1032 (Muratori S. R. I. T. II. P. II. p. 994).

It is easy to comprehend from this the jealousy between the secular and monastic confessors.

desirable, the sins of the grantor's parents or children or kindred would be thrown in.[1] Thus we can understand the formula "pro remissione peccatorum meorum," which occurs in so many grants of lands to the Church.[2] Sometimes the grantor was more cautious, and retained not only the usufruct of the property during life, but also the power of revoking the gift at any time before death.[3] The

[1] A specimen of this, in 1065, is given in the *Chron. Casauriens.* ann. 1065 (Ibid. p. 1001). A still more comprehensive inclusion of souls to be benefited is found in a charter of the Knight Adelelm, about 975, granting to the Abbey of Fleury a manor and church in the diocese of Sens "pro remedio animæ meæ et senioris mei inclyti Francorum ducis Hugonis, quin et progenitore meo Roberto et genetrice mea nomine Berta, et pro Burchardo et aliis parentibus meis."—Migne, CXXXVI. 1303.

Even more general in its efficacy was the rebuilding and endowing of the church of St. Eulalia in 975 by Pedro I., Bishop of Compostella—"tam pro remissione peccatorum genitorum meorum, fratrum cum sacerdotibus vel omnium consanguineorum meorum qui in ipso loco sepulti quiescunt, pro me et ipsis hoc cupio facere."—España Sagrada, XX. 385.

[2] As early as the seventh century the occurrence of these formulas in Marculfus (Lib. II. n. 4, 6, etc.) show them to be already an established custom. The implicit belief taught in the efficacy of this mode of redemption is well expressed in a charter of Alfonso IX. of Castile, in 1206, to the monastery of St. Mary of Aguilar—"Libente animo et spontanea voluntate, credens immo penitus sciens ex pio opero veniam consequi delictorum, facio cartam concessionis, confirmationis et prosectionis Deo et sancte Marie Monasterio de Aguilar."—Boletín de la Real Academia de la Historia, Mayo, 1891, p. 443.

Even in abandoning to the church of San Giorgio di Braida his control over its temporalities, Bernardo, Bishop of Verona, in 1023, makes use of a similar formula.—Spicilegio Vaticano, I. 11.

In course of time the principle became of universal application. In 1215 King John grants Magna Charta "et pro salute animæ nostræ et antecessorum omnium et hæredum meorum."—Matt. Paris Hist. Angl. ann. 1215. Apparently the scribe who drew the charter did not pause to ask how the salvation of John's ancestors could be effected by his acts. Even yet the distinction between *culpa* and *pœna* was imperfectly apprehended.

[3] "Recognovimus nos in elemosinam perpetuam contulisse pro remedio animæ nostræ et antecessorum nostrorum Abbacie Joevalis Premonstratensis ordinis domos nostras totas cum toto proprisio in vico S. Germani Antissiod. Parisiensis, ita tamen quod nos quamdiu vixerimus domos easdem cum toto proprisio tenebimus et possidebimus, post mortem vero nostram ad dictam abbatiam devolventur, nisi de domibus memoratis in sanitate nostra vel in ultima voluntate aliud ordinaverimus. Poterimus etiam donationem istam revocare usque ad supremum vitæ exitum si voluerimus."—Cartularium Ecclesiæ Parisiensis T. III. p. 85.

Church apparently was willing to promise remission of sins on any terms, and if the penitent had nothing else wherewith to purchase redemption, it would even take himself and his family as serfs[1]—an act singularly at variance with its beneficent teachings that the liberation of slaves was a work of charity which served to gain pardon for sin.[2]

The mercantile character of these transactions, by which the Church sold claims on heaven in exchange for worldly wealth is unblushingly expressed by Boniface VIII. when he lauds the happy commerce by which earthly things are traded for heavenly, and transitory for eternal.[3] This commerce, so industriously pursued for centuries, resulted in the transfer to the Church of a large portion of the lands of Europe. No better authority on the subject can be cited than Muratori, who asserts that this was the principal source of the innumerable acquisitions of the Church, and that no one could form an adequate conception of its extent who had not delved in the cartularies of churches and monasteries. Writing in the last century, before the revolutionary upheaval had stripped it of so large a portion of its temporalities, he says that its wealth at that time could serve as no criterion of the extent of its possessions in the medieval period.[4] Its eschatology was skilfully framed, and it exploited remorselessly the fears of the sinner.

Even penance voluntarily assumed could be similarly redeemed. In 1129, the treasurer of the church of Compostella proposed to make a pilgrimage to Jerusalem, but Archbishop Gelmirez persuaded him to send thither the oblation which he intended to make, and then devote the expenses of the journey to bestowing some gift on Santiago. Opportunely the king sent to Compostella for sale a splendid gold chalice from the church of Toledo, and this Gelmirez persuaded the treasurer to buy and lay on the altar in redemption of his pilgrimage.[5]

[1] "Quidam homo Lambertus nomine, cum esset ingenuus et maneret apud Setas, cum uxore sua nomine Eremburgi ac liberis Famuero et Dominico ejusdem conditionis, gratis se tradidit Sancto Petro ad serviendum in loco qui dicatur Fons Besua ac monachis ibi degentibus famulantibus Deo, quatenus libertas provenerit animabus eorum.—Chron. Besuense (Migne, CLXII. 899).

[2] Marculfi Formularum Lib. II. n. 32, 33.

[3] Digard, Registres de Boniface VIII. n. 2405 (T. II. p. 12).—"Terrena in cœlestia et transitoria in æterna felici commercio commutando."

[4] Muratori Antiq. Ital. Diss. LXVIII. (T. XIV. pp. 14, 118).

[5] Historia Compostellana Lib. III. cap. 8.

In the early twelfth century we still find the old commutations elaborately rehearsed by St. Ivo of Chartres as still in force.[1] As the schoolmen commenced to reduce into system the current practices and to construct theories to suit, some protests were naturally made against them. The pseudo-Augustin warns the sinner that money without repentance is insufficient; he who would redeem his sins by offering temporal things must first offer his spirit.[2] Hugh of St. Victor argues that if sin could be redeemed by money rather than by charity, the rich would be more favored than the poor, and could sin securely whenever they pleased; they would have within easy reach the redemption of their sins and could obtain justification at any time by giving money.[3] Abelard indignantly reproves the numerous priests who know better, and who yet through greed for money release their penitents from the penance assigned to their sins.[4] These remonstrances went for naught, though as the sacramental theory became established it was necessarily recognized that redemption no longer covered the *culpa* but only the *pœna*. Peter of Poitiers shows us that the system was in full vigor towards the end of the century;[5] a privilege of Cœlestin III., in 1195, to the church of SS. Mary and Theobald of Metz provides that the expenses of a pilgrimage to Rome, if paid to it in cash, shall stand in lieu of such pilgrimage,[6] and the canons of various councils through the thirteenth century allude to it as an established custom.[7] William of Paris says that it is madness for a penitent to undertake long pilgrimages and macerations when he can accomplish as much by giving to the Church three eggs and three farthings.[8] John of Freiburg quotes the Gloss on the Decretum for the rule that the confessor should always allow the penitent to redeem at will the

[1] Ivon. Carnotens. Decr. P. xv. cap. 192–205.

[2] Ps. Augustin. de vera et falsa Pœnit. cap. 15.

[3] Hug. de S. Victore de Sacramentis Lib. II. P. xiv. cap. 6.

[4] P. Abælardi Ethica cap. 25.

[5] Pet. Pictaviens Pœnitentiale (Amort de Indulgentiis II. 33.—Morin. de Pœnit Lib. VII. cap. 22).

[6] Cœlest. PP. III. Epist. CCXXII. (Migne, CCVI. 1106).

[7] Statut. Eccles. Cenoman. ann. 1247 (Martene Ampl. Coll. VII. 1380).—Statut. Eccles. Nannetens. cap. 88 (Martene Thesaur. IV. 949).—C. Claromont. ann. 1248 cap. 7 (Harduin. VII. 599).—Synod. Nemausens. ann. 1284 (Ibid. 913).

[8] Guillel. Paris. de Sacramento Ordinis cap. xiii.

penance enjoined, and that this was currently accepted is seen in its repetition by Astesanus, with the addition that a fast can be redeemed with a penny.[1] Towards the close of the fifteenth century Angiolo da Chivasso tells us the same, while in the sixteenth and seventeenth centuries the current books of practice bear testimony that the custom remained unaltered.[2] Liguori simply tells us that the confessor can commute a penance imposed by him, while the penitent has no power to do so.[3] In fact, long before the redemptions disappeared from the text-books, they had become a matter of no practical importance, for they had been supplanted by the growth of the system of indulgences. The latter brought in immediate returns to the more conspicuous churches, and especially to the Holy See, which grasped the lion's share, and they naturally were stimulated at the expense of the older custom, which was the device of a period ignorant of the treasure of the Church and of the uses to which it could be put. In modern times, since indulgences, save the Cruzada, have been made mostly gratuitous and are so easily obtained, while penance has become little more than nominal, there can no longer be any occasion for redeeming it with money.

When the system of redemptions, under the sacramental theory, became restricted to the *pœna*, there naturally arose a demand for some equally facile method of eluding the *culpa*, nor, to generations trained in Pope Boniface's happy commerce and accustomed to see the power of the keys exploited in every way for gain, could there be anything abhorrent in the sale of pardons and absolutions. If the priest could derive, as we have seen, a revenue from the confessional, and the abbey could add manor to manor by relieving the sinner from the weight of his guilt, the prelate who had reserved the more heinous offences for his own tribunal, and the pope,

[1] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 135.—Astesani Summæ Lib. V. Tit. xxxi. Q. 2; Canon. Pœnitent. § 55.

[2] Summa Angelica s. v. *Confessio* VI. § 1.—Summa Sylvestrina s. v. *Confessor* III. § 15.—Azpilcuetæ Man. Confessarior. cap. xxvi. n. 20.—Pœnitent. S. Caroli Borromei (Wasserschleben, p. 727).—Val. Reginaldi Praxis Fori Pœnit. Lib. VII. n. 40.

Morin and Binterim are therefore in error in asserting that the redemption of penance disappeared with the disuse of the Penitentials.

[3] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 528–9.

who, as the universal bishop, had jurisdiction in first and last resort over all the faithful, would have been curiously indifferent to the opportunities afforded by the customs and spirit of the age, had they not utilized their power in the same fashion. So long as confession was irregular and voluntary, there could be no organized and systematized arrangement for such a traffic, but when confession was made obligatory by the Lateran canon of 1216, and sinners were required to obtain absolution annually as a condition precedent to the prescribed Easter communion, it became necessary for the bishops and the pope to make arrangements for the business which commenced to flow into them as enforced confession gradually became general. Thus arose the office of penitentiaries to whom the prelates delegated the powers which their other duties and occupations prevented them from exercising personally. The earliest allusions to such functionaries that I have met with occurs in the synod of York, in 1195, where perjurers are directed to be sent to the general confessor of the diocese, in the absence of the bishop or archbishop.[1] The Lateran council, recognizing the necessity of such officials, ordered the bishops to appoint them not only in their cathedrals but in all conventual churches, and we have seen (I. p. 230) that this was gradually though not universally obeyed. That these functions were a source of revenue in populous and wealthy dioceses would appear from the fact that, in 1263, we find the office of penitentiary in the church of Paris held on feudal tenure of the bishop, to whom homage is paid on investiture.[2] It was probably to protect this means of income that, in 1294, the council of Saumur forbade the archdeacons, deans and archpriests of the diocese of Tours from granting absolution for money in episcopal reserved cases.[3]

The Papal Penitentiary was a natural outgrowth of the system. Penitents, as we have seen, were in the habit of appealing to the Holy See, either to obtain mitigation of penances imposed at home, or sent thither by bishops unable to decide especially difficult cases, or applying for penance in hopes that the devotion manifested by the pilgrimage might procure for them easier terms than they were likely to obtain from their own prelates, and that this was the case is ren-

[1] C. Eboracens. ann. 1195, cap. 11 (Harduin. VI. II. 1932).
[2] Chartularium Eccles. Parisiens. I. 200.
[3] C. Saumuriens. ann. 1294, cap. 3 (Harduin. VII. 1117).

dered evident by the constantly increasing business of the kind, in spite of the remonstrances and efforts of the local authorities and councils to suppress it, from the time of St. Boniface in the eighth century to the council of Limoges in the eleventh.[1] There seems however to have been no special organization in the curia for the treatment of these cases until the introduction of enforced annual confession. One of the results of this must have been to increase greatly the number of penitents and to force on the local confessors and bishops the consideration of a vast number of cases which they were ill-prepared to decide, so that the afflux of pilgrims to the Holy See, whether for original judgment or for appeal, naturally grew. In addition to this was the constantly increasing list of papal reserved cases, so that a permanent tribunal in perpetual session became a necessity. In the existing confusion as to the limits of the *forum internum* and *externum* this tribunal grasped a vast mass of business wholly disconnected with sacramental penance and absolution, but in the latter sphere it was supreme, and to it flocked from every corner of the lands of the Roman obedience criminals and sinners of every kind eager to obtain pardon. In time this pardon came to be recognized as good not only in the forum of conscience, but in the secular courts, and when some ill-advised jurists sought to limit its competence to the spiritual forum, Sixtus IV., in 1484, exploded in indignation at the sacrilegious audacity, and pronounced its decisions binding on all courts ecclesiastical and secular—a declaration which had to be repeated by Paul III., in 1549, and by Julius III., in 1550.[2]

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[1] S. Bonifacii Epist. 49.—Hincmari Remens. Epist. xxxii. cap. 20.—C. Triburiens. ann. 895, cap. 20 (Harduin. VI. I. 448).—C. Salegunstadiens. ann. 1022, cap. 18 (Ibid. p. 830).—C. Lemovicens. ann. 1032, Sess. II. (Ibid. p. 890).

[2] Sixti PP. VI. Const. *Quoniam nonnulli;* Julii PP. III. Const. *Rationi congruit.* (Bullar. I. 428, 785).

That the Penitentiary held its absolutions to be a free pardon in both forums for the most serious crimes is clear from the language of Pius IV. when, in 1562, he undertook a partial reform and restricted it in this respect—"Præterea ne Ordinarii in corrigendis subditorum excessibus impediantur et delicta impunita remaneant, non concedat absolutiones vel mandata de absolvendo ab homicidiis vel aliis gravibus delictis, etiam occultis, pro quibus de jure civili pœna capitalis imposita sit, præterquam in foro conscientiæ dumtaxat."—Pii PP. IV. Const. *In sublime,* 4 Maii, 1562 (Bullar. II. 75).

The pardons which Tetzel sold in 1515 were not simple indulgences *in foro conscientiæ,* but protected the purchaser from criminal prosecution.—Gröne,

The Reformation emboldened the civil power to protest against these invasions of its jurisdiction, and when the final convocation of the council of Trent occurred in 1562, among the complaints presented was one from Sebastian, King of Portugal, asking that the Penitentiary be restrained from thus interfering with justice.[1] The curia was setting its house in order, to meet the exigencies of the times, and Pius IV. in May of that year issued a bull abolishing in the Penitentiary many of the abuses which he said had crept in through the licence and negligence of former times, and ordering it in future to concern itself exclusively with the forum of conscience and the salvation of souls. In 1569 the stern reformer St. Pius V. went further; he remodelled the whole organization, he cut down remorselessly the number of its officials, he abolished the sale and purchase of the offices, he ordered that all letters should be granted gratuitously, and he forbade, under the severest penalties, the receipt of either bribes or fees.[2] Since then, with some occasional modifications, it has run in the grooves he traced for it.

Prior to the counter-Reformation it was a matter of course that the absolutions granted by the Penitentiary were issued directly or indirectly for money. There was nothing in this to shock the ordinary public conscience, for the training of centuries had familiarized men's minds with the idea that pardon for sin was purchasable; the curia was always in need of funds, for no matter what portion of the wealth of Europe was poured into its lap, there were always eager hands to clutch it, and the ambitious designs of the Holy See always grew with the means of their gratification. That it should exploit every available source of revenue was expected, and the clergy, as a rule, would scarce criticise any source of gains that might postpone the ever-impending demand for a tenth or a twentieth of their incomes to aid it in some holy war which it was contemplating or had undertaken. Yet there were occasional indications that the business of the Penitentiary might be carried on too openly. When John XXII. desired to punish from Avignon his penitentiaries in Rome for absolving Louis of Bavaria and his adherents from excommuni-

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Tetzel und Luther, oder Lebensgeschichte und Rechtfertigung des Ablasspredigers und Inquisitors Dr. Johann Tetzel, pp. 187–9 (Soest, 1860).

[1] Le Plat, Monument. Concil. Trident. V. 86.

[2] Pii PP. IV. Const. *In sublime;* S. Pii. PP. V. Const. *In omnibus Rebus* (Bullar. II. 75, 300).

cation, he took the opportunity to accuse them of selling pardons *a culpa et a pœna* for the grossest offences and of delegating their faculties to others for the purpose of increasing their gains, and Clement VI. felt himself obliged to dismiss, for similar reasons, some of the special penitentiaries appointed for the Jubilee of 1350, whose fault possibly was the retention of the moneys that should have accrued to the camera.[1] In time the reforming elements in the Church grew restless. At the council of Constance the German Nation had no hesitation in describing the sale of pardons in the penitential forum by the curia as more horrible than simony, and the manner of the allusion to it shows that it was notorious and universally recognized.[2] Æneas Sylvius, before he became Pius II., declared that the curia gave nothing without payment; imposition of hands and the Holy Ghost were sold, and the pardon of sins was only to be obtained by those who had money.[3] In 1536 a commission appointed by Paul III. to consider these and similar matters reported that though the Taxes of the Chancery appeared scandalous to some pious minds, yet the money was not demanded for the absolution but in satisfaction of the sin, and was properly devoted to the pious uses of the Holy See.[4]

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[1] Bullarium Vaticanum, I. 273, 343. The position of minor penitentiary, though at this time not as yet purchasable, was not acquired gratuitously. In the Tax-tables of the Avignonese period as recently printed by Tangl (Mittheilungen des Instituts für österreichische Geschichtsforschung, XIII. 89), the price of the commission of a penitentiary for the jubilee year of 1350 is 16 *gros tournois.* This was only about a fourth of the official fees, so that the appointment cost the recipient some six or seven florins, and he, of course, would expect in some way to make a profit on the investment, although by the bull *In agro Dominico* of Benedict XII. in 1338 he was prohibited from asking or accepting anything for himself from penitents.—Denifle, Die älteste Tax-rolle der Apostol. Pönitentiarie (Archiv für Litteratur- und Kirchengeschichte, IV. 212).

[2] Protestatio Nationis Germanicæ (Von der Hardt, IV. 1422).—"In foroque pœnitentiali, quod horrendius est quam simoniacæ pravitatis vitium, ubi non in remedium animarum sed sub colore appretiandarum chartarum, crimina delinquentium aut gratiæ dispensationum, præcise secundum qualitatem suam, ut res profanæ taxantur, abusiones manifeste nefandas committendo."

[3] Æneæ Sylvii Epistt. Lib. I. Epist. 66.—"Nihil est quod absque argento Romana curia dedat. Nam et ipsæ manus impositiones et Spiritussancti dona venduntur. Nec peccatorum venia nisi nummatis impenditur."

[4] Döllinger, Beiträge zur politischen, kirchlichen und Cultur-Geschichte, III. 210.

This reasoning did not satisfy the more rigid commission of cardinals appointed two years later by Pius to frame the project of reformation famous as the *Consilium de emendanda Ecclesia.* They declared the Penitentiary and Datary to be an asylum where the wicked find impunity in return for money, and they adjured the pope to remove this scandal which would bring to ruin any kingdom or republic permitting its existence.[1]

The old controversy as to the existence and genuineness of the notorious Taxes of the Penitentiary has been set at rest by the publication by Father Denifle of the original Tax-table, framed by Benedict XII. in 1338.[2] It is a list of the various forms of letters issued by the Penitentiary, with the maximum fees allowed to be charged for them. As the business of the Penitentiary was mostly concerned with matters of the *forum externum*—dispensations, absolutions from excommunication and the like—the references in the tax-list to absolutions from sin *in foro conscientiæ* form a comparatively small portion of its contents, and the several sins are sometimes grouped together in a manner to show that the price charged for the letters of absolution bore no relation to the quality

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[1] Le Plat, Monument. Concil. Trident. II. 601.

[2] Archiv für Litteratur- und Kirchengeschichte, IV. 201.

Of the *Taxæ*, repeatedly issued by Protestants as material for controversy, there are two recensions. One of these was first printed by Wolfgang Musculus, and was republished, with a French translation, by Antoine Du Pinet, Lyons, 1564 This was reprinted, in 1701, with the date of London, then, in 1821, with a large amount of extraneous matter, by Collin de Plancy under the pseudonym of Julien de Saint-Acheul, and finally, in 1872, by J. M. Cayla. The original source of this has, I believe, never been identified.

Another recension of undoubted authenticity appeared in Paris, in 1520, from the press of Toussaint Denis. It has been repeatedly reprinted, the principal editions being those of Banck, Francker, 1651; Du Mont, Bois-le-Duc, 1664 and 1706; Friedrich, Hannover, 1827; Gibbings, Dublin, 1872; Woker, Nordlingen, 1878, and Saint-André, Paris, 1879.

Another recension, without date, but printed about 1500, is in the White Historical Library, Cornell University, A. 6124.

The origin of the Taxes of the Penitentiary may perhaps be traceable in a commission given, in 1240, by Gregory IX. to the Dominican Provincial of France to raise funds for the tottering Latin Empire of Constantinople. Among other expedients he is authorized to absolve from the censures incurred for violence to clerics on the offender satisfying the injured party and paying over what a journey to and from Rome for absolution would cost him.—Ripoll. Bullar. Ord. Prædic. I. 109.

or degree of the crime pardoned. They evidently were simply scrivener's fees.[1] In the early operations of the Penitentiary these were doubtless the whole charges for letters, but, with the increasing growth of the organization and multiplication of its officials, the fees were reduplicated, for drafting the supplication, rough draft of letters, fair copying, sealing and registration, till they amounted to four or five-fold the price in the Tax tables, and often much more.[2]

This does not, however, serve to explain the assertions quoted above that the Holy See sold absolutions for sin, nor the complaints of its demoralizing influence. There evidently must have been some other payments exacted, corresponding both to the gravity of the offence and the ability of the offender. The existence and nature of these payments are indicated in the bull of Benedict XII., in 1338, regulating the Penitentiary. That office consisted at this time

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[1] For instance (Denifle, pp. 222–3)—

Item pro littera simplicis clericidii, pro præsente, non ultra	IIII.	Turon.
" " " laicalis homicidii, tam pro præsente quam pro absente, non ultra	III.	"
" " " uxoricidii, non ultra	III.	"
" " " patricidii vel matricidii aut fratricidii, non ultra	IIII.	"
" " " laicalis homicidii, periurii, incendii, incestus, spolii, rapine et sacrilegii, non ultra.	V.	"
" " " universali a peccatis, non ultra . . .	III.	"

In the penitential canons collected from Gratian by Astesanus, which were, nominally at least, in force at this period, the penance prescribed for incest was not less than seven years, for voluntary homicide seven years, for accidental homicide five years, for matricide ten years, for uxoricide something more, for perjury from seven to ten years, for sacrilege seven years, for arson three years.—Canones Pœnit. §§ 6, 8, 15, 16, 18, 21, 29, 43, 48.

[2] Tangl, Das Taxwesen der päbstlichen Kanzlei (Mittheilungen des Instituts für österreichische Geschichtsforschung, XIII. 63 sqq.).

In this remarkable paper Herr Tangl has printed the Tax tables of the Avignonese popes, illustrated with ample references to contemporary documents.

A single instance quoted by him will suffice to show how little relation the price in the tables bore to the real cost. In 1424, the Abbey of St. Albans procured a dispensation to eat meat in Lent, the tax for which in the tables is ten *gros tournois*, and also a privilege to use portable altars, taxed at the same rate, while the accounts of the abbey show that for the former the fees paid to the curia amounted to 462 *gros*, and for the latter to 418.—Amundesham Annal. Monast. S. Albani. Ed. Riley, II. 271 (M. R. Series).

of a cardinal known as the Major Pœnitentiarius and his assistants; in addition to these there were two minor penitentiaries, with special faculties, stationed at Rome in St. Peter's, and others in the principal church of the town where the curia might happen to be.[1] It was to these minor penitentiaries that the penitent seeking absolution was referred to make confession, accept penance, and obtain letters of absolution. They were prohibited from asking or accepting anything from penitents, but they were expected to impose pecuniary penances for the benefit of the papal camera. In the bull of 1338 there is a clause forbidding them to enjoin such penances for the benefit of themselves, or of their own Order or any other Order, and the oath administered to them on receiving their commissions contained a promise to the same effect.[2] Evidently there was only one recipient of pecuniary penance permitted, and, although this recipient is not specified, we cannot well be in error in assuming it to be the papal camera. Penances by this time were arbitrary, but the canons were still legally in force as well as the redemptions; it was easy to show the penitent what was the money value of the absolution he sought, and modify it according to his ability to pay. It is a reasonable presumption, therefore, that the routine of absolution by the penitentiaries produced a revenue over and above the comparatively trivial fees of the tax lists, which explains the absence of relevancy between those fees and the nature of the crimes, and which justifies the contemporary assertions of the sale by the curia of pardons for sin.[3]

It would, of course, be unjust to conclude that in its use of the authority to bind and to loose the Church looked solely to its own aggrandizement in wealth and power, but the evidence is unfortu-

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[1] In 1342, Clement VI. added a third penitentiary, stationed in St. John Lateran.—Bullar. Vaticanum, I. 343.

[2] Bened. PP. XII. Bull. *In Agro Dominico* (Denifle, loc. cit. p. 212).—Bullar. Vatican. I. 338.—"Et quod non injungam pœnitentias pecuniarias expresse mihi vel personæ certæ vel [ordino meo vel] alteri applicandas."

[3] Apparently even at the present day transactions of the same nature are not wholly unknown. Father Müller tells us that "a certain confessor refused absolution to a poor servant because, though he went to Mass, he did not hear the sermon on Sundays; yet the same confessor absolved a rich man who gave scandal by keeping a mistress, because this man had presented the church with a costly carpet."—Catholic Priesthood, III. 145.

nately too strong and decisive that it habitually exploited its assumed control over salvation for self-seeking purposes in every way that its ingenuity could suggest. The larger its possessions and revenues became, the more numerous grew those who sought a career in its service, so that, however great was the income, it was always inadequate to the desires of those among whom it was apportioned, and the more eagerly were means sought for its increase. The resultant influence on the moral development of Christendom could not fail to be deplorable.

CHAPTER XIX.

SATISFACTION.

According to the Tridentine definition the three parts of the matter of the sacrament of penitence are contrition, confession and satisfaction, and they are commonly called the three parts of penance.[1] Satisfaction is penance considered as the means whereby the sinner satisfies God, after he has been released from the *culpa* of his sins by contrition, confession and absolution. These latter leave him still amenable to the pains of purgatory, from which he is released by satisfaction through the virtue of the sacrament. Nominally at least, therefore, satisfaction is only a scholastic synonym for penance, but the change in designation serves as an index of the altered conception introduced by the scholastic theology as to the relations between the sinner, the priest and God.[2] The development of the power of the keys, the acceptance of the sacramental theory, and

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[1] C. Trident Sess. xiv. De Pœnitentia Can. 4.—"Si quis negaverit ad integram et perfectam peccatorum remissionem requiri tres actus in pœnitente, quasi materiam sacramenti pœnitentiæ, videlicet contritionem, confessionem et satisfactionem, quæ tres pœnitentiæ partes dicuntur . . . anathema sit."

Yet so uncertain was the theory of the sacrament of penitence that before this anathema was launched it was a disputed point among the doctors whether satisfaction was a part of it. Cardinal Caietano says (Opusc. Tract. vi. Q. ii.) "In satisfactione vere sacramentali opus est præcipue pœnitentis et tam parum habet sacramenti ut multi doctores negant ipsam esse partem sacramenti."

[2] The word "satisfaction" was probably adopted by the schoolmen in order to avoid the confusion arising from the duplicate meaning of *pœnitentia* as penitence and penance. It was not of scholastic coinage. Tertullian uses it (De Pœnit. cap. 9) "quatenus satisfactio confessione disponitur." St. Ambrose says (De Lapsu Virginis n. 37) "grande scelus grandem habet necessariam satisfactionem." St. Augustin (Serm. cccli. cap. 5) speaks of satisfying God by repentance. Gennadius of Marseilles (De Eccles. Dogmat. cap. 54) defines it in a manner to exclude penance—"Satisfactio pœnitentiæ est causas peccatorum excidere nec earum suggestionibus aditum indulgere." It was occasionally used as a synonym for penance prior to the rise of the scholastic theology, as by the council of Toulouse in 1056 (Harduin. VI. i. 1045) and by St. Anselm (Cur Deus Homo Lib. i. cap. 15).

finally the discovery in the thirteenth century of the treasure of the merits of Christ and of the saints confided for dispensation to the sacerdotal class, could not but work a profound alteration in the administration of penance. The old Penitentials with their laborious enumeration of sins and their penalties grew obsolete, the confessor was clothed with the attributes of a judge possessed of unlimited discretion, penance became voluntary in place of prescriptive, and its long terms shrank until it grew to be scarce more than nominal. So vast a change as this could only effect itself by degrees. The struggle between tradition and innovation was prolonged and confused, and I can only here allude briefly to some of the more prominent indications which enable us to trace its existence and direction.

We have seen in the last chapter that even in the Penitentials a certain amount of discretion was allowed to the priest to modify the terms of penance prescribed, and there was an evident necessity for this in dealing with freemen and bondmen, poor and rich, clerics and laymen, children, invalids, women and strong men, whose capacity of endurance and ability of redemption varied so infinitely. Yet this discretion evidently had its limits, for examples cited above of penance inflicted in the eleventh and early twelfth centuries show the rigor with which the canons were still administered, and the utterances of Alexander II., Gregory VII. and Urban II. manifest the unyielding intention of maintaining the severity of the ancient system. In fact the possessions of the Church could otherwise scarce have grown with such rapidity under the influence of redemptions. Gratian repeats, from the older compilations, the dictum that he is scarce to be called a priest who is not familiar with the penitential canons; this continued to be reiterated as a matter of course until the seventeenth century,[1] and we have seen (p. 118) how long the rule was asserted that every mortal sin requires seven years' penance for its remission. Azpilcueta, indeed, in the second half of the sixteenth century, would seem to be the first to boldly assert that there is no such law; it has been received, he says, and practised by the Church without authority, and it would be futile to impose seven years for each mortal sin to one who confesses a thousand.[2]

The priestly prerogative of modifying this severity naturally grew

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[1] Cap. 5 Dist. XXXVIII.—Reginaldi Praxis Fori Pœnit. Lib. VII. n. 53.

[2] Azpilcuetæ Comment. de Pœnit. Dist. V. cap. *Falsas* n. 14–16.

with time and use, and when, through the development of the power of the keys, he became gifted with the faculty of conferring sacramental absolution, it could no longer be subject to limitation. Peter of Poitiers would appear to be the earliest to assert it absolutely and unqualifiedly, and he is followed by Adam de Perseigne.[1] In fact the antiquated and rude legislation of the Penitentials was manifestly inadequate to the needs of a time when the schoolmen were exploring every corner in the field of morals and were weighing and measuring every deviation from a standard more or less arbitrary. An ethical code was slowly growing up of the minutest character, and scholastic ingenuity revelled in the definition of every variety of sin, mortal and venial, and in drawing the most refined distinctions. Thus everything tended to a new order of things in which the priest was formally installed in the place of God, with full power and responsibility, and immediately the innumerable questions arose which have puzzled the doctors ever since in endeavoring to prescribe for him rules by which his finite wisdom may be enabled to perform the functions of Omniscience. Thus Alain de Lille, who throws aside the Penitentials as obsolete, and places everything in the hands of the priest, proceeds to instruct him how he is to inquire into the circumstances of each sin so as to weigh precisely its degree of guilt, and what deductions he is to draw from the looks of the penitent—[2] vain and misleading formulas for searching the inscrutable heart of man, which have been endlessly repeated and remoulded from that day to this with unvarying impotence.

Yet the penitential canons were too deeply rooted in the traditions and practice of the Church to be thus easily discarded, and there arose a curious and confused struggle between the old order and the new which lasted yet for more than a century. Nominally the ancient canons remained in force, though they were more and more superseded by the arbitrary discretion of the confessor. In losing their absolute sanction they lost their coercive character; they could not be imposed on the unwilling penitent; and, moreover, as reconciliation developed into absolution and penance became sacramental, satisfaction assumed the character of a voluntary offering to God by

[1] Morin. de Pœnit. Lib. VII. cap. 22.—Adami Perseniæ Abbat. Epist. XXVI. (Migne, CCXI. 682).

[2] Alani de Insulis Lib. Pœnitent. (Migne, CCX. 286–92, 297).

the penitent to extinguish the *pœna* or term of suffering still due in purgatory. He had to be consulted about this, and we shall see how greatly this served to aid the other influences which were softening the time-honored rigor of the Penitentials. The perplexities of this transition period are well illustrated by a tract on penitence, written towards the close of the twelfth century, at the request of a dean of Salisbury, by Robert de Flammesburg, who had served as penitentiary in Paris. In one passage he treats the canons as still in force, and alludes to his having prescribed fourteen years to a penitent who had seduced a cousin; he expresses his vehement desire always to follow them, and warns the confessor that he must not use arbitrary discretion; if the penitent is willing to accept the canonical penance and the priest imposes less, the penitent will escape purgatory, but the priest will suffer. Yet the priest has full discretion to augment or to moderate. Robert describes himself as always prescribing the canons, but if the penitent objected he would at once offer to reduce the penance, and to those who would promise to reform he would mitigate it to any desired degree. There were few, he says, who would either impose or accept the full measure, and the penitent must never be allowed to depart in despair of pardon.[1]

As the priest ceased to be merely an intercessor for mercy and became a dispenser of absolution, his control over the definition of satisfaction was authoritatively recognized. Innocent III. proclaimed that it rested solely with him, with the guiding rule of prescribing what might appear most expedient for the salvation of the sinner, and this decretal being embodied in the compilation of Gregory IX. became the law of the Church.[2] Yet S. Ramon de Peñafort, though he included it in making the compilation, was not wholly in accord with it. He collects a number of typical canons of the ancient severity and says that diligent study of them will serve as a guide for the selection of appropriate penance in other cases, nor should the priest vary from them without due cause; it is true, he adds, that some hold all penance to be arbitrary, and that such is the common custom, but the other rule is safer, though more difficult.[3] On the other hand, his contemporary, William of Paris, in

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[1] Morin. de Pœnit. Lib. VII. cap. 22; Lib. X. cap. 25.
[2] Cap. 8 Extra Lib. V. Tit. xxxviii.
[3] S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.

arguing for priestly discretion, shows the inherent incompatibility of the old penitential system with the new doctrine of sacramental absolution. If the canons must be enforced the priest is a mere executioner who has no power to modify a sentence, the Church is powerless and the keys are useless; if the priest should vary from the strict letter his acts would be invalid; it is impossible to affix a definite penance for every sin, when the grades of guilt may be infinite, and God, moreover, has never revealed the amounts which he requires of penitential satisfaction; if the priest is doubtful he should consult experts; it is true that in spite of care and consultation two priests may assign different penances for the same degree of sin, but it is pious to believe that God accepts both, however unequal.[1] Bishop William, however, eludes the fatal perplexities of the problem, and does not stop to ask what becomes of the penitent if the confessor does not act with due discretion and counsel, while in the Penitentials there was at least the common consensus of the Church condensed from the experience of centuries. Alexander Hales tries to steer a middle course. Some hold, he says, that all penances are purely arbitrary, and that the power of the keys enables the priest to assign them at will; others assert that the canons are still in force and that the priest can only increase or diminish them to suit the circumstances of the case; his own opinion is between these extremes, and he solves the problem with the fruitful suggestion that if the penance is too light the penitent must make up for it in purgatory.[2] Albertus Magnus takes virtually the same position,[3] while Johannes de Deo, in 1247, insists that the freeman who sins voluntarily must be subjected to the full rigor of the canons, and the only relaxation allowable is for the slave compelled to sin by his master.[4] Cardinal Henry of Susa shows the conflict between principle and practice by formulating a similar rule and immediately proceeding to inculcate moderation, thus recognizing the discretion of the confessor.[5] The Gloss on the Decretum, which had nearly the authority of the text itself, admits fully the arbitrary power of the priest, who, when there

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[1] Guillel. Paris. de Sacram. Pœnitent. cap. 20.

[2] Alex. de Ales Summæ P. IV. Q. XXI. Membr. iii. Art. 1.

[3] Alb. Magni in IV. Sentt. Dist. XX. Art. xiv. (Morin. de Pœnit. Lib. X. cap. 15).

[4] Joh. de Deo Pœnitentiale, Lib. I. cap. 3.

[5] Hostiens. Aureæ Summæ Lib. V. De Pœn. et Remiss. § 60.

is contrition, can remit part or the whole of the satisfaction.[1] Aquinas, on the other hand, denies that the confessor can exercise his functions arbitrarily, but by relegating him to divine inspiration the same result is virtually reached, especially as he says that the canons are not suited to all cases.[2] St. Bonaventura treats satisfaction as wholly discretional, yet endeavors to maintain the authority of the ancient canons.[3] John of Freiburg can only repeat the assertions of his predecessors —the canons are still in force, but penance is arbitrary.[4] Astesanus recurs to the position of Ramon de Peñafort; there are two opinions, one asserting the complete discretion of the priest, the other the binding force of the canons, and of these the latter is the safer and the more difficult.[5] St. Antonino shows that by the middle of the fifteenth century the laxer opinion had completely triumphed; the canons, he says, are obsolete and satisfaction is wholly arbitrary; it would be useless to endeavor to overcome the unwillingness of penitents to submit to the old severity, and indeed a lifetime would frequently be insufficient; all the confessor can do is to persuade the penitent to undertake as much as he will accept, and be satisfied that he is transferred from hell to purgatory.[6] Bartolommeo de Chaimis

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[1] Gloss. sup. Cap. *Si is* (cap. 28) Caus. XXIII. Q. iv. This canon is from Gregory I., prescribing rigid enforcement of penance.

The Gloss was written by Johannes Teutonicus, and was enlarged, about 1257, by Bartolomæus Brixiensis.—Mart. Fuldens. Chron. (Eccard. Corp. Hist. Med. Ævi I. 1712).

[2] S. Th. Aquin Summæ Suppl. Q. XXVIII. Art. iv.

[3] S. Bonavent. Confessionale Cap. III. Partic. 1–58; Cap. IV. Partic. 1.

[4] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 125.

[5] Astesani Summæ Lib. v. Tit. xxxi. Q. 2; Tit. xxxii.

[6] S. Antonini Summæ P. III. Tit. xvii. cap. 20.

A contemporary English rhyming confessional frankly accepts the current practice—

Hyt were fulle harde that penaunce to do
That the lawes ordeyneth to.
Therfore by gode dyscrecyone
Thou must in confessyone
Joyne penaunce both harde and lyghte
As thou hereaftere lerne myghte.
On dedly synne as lawes techeth
To seven yeres ende recheth—
But now be fewe that wole do so
Therfore a lyghter way thou moste go.

—John Myre's Instructions to Parish Priests, vv. 799–804, 1737–44.

gives a series of canons, not that they are observed, he says, for they are obsolete, but for the instruction of the confessor in the comparative gravity of sins; penances are now purely arbitrary, and the priest can only impose what the penitent will readily accept.[1] Prierias still declares that seven years are due for every mortal sin, but that the matter is wholly in the hands of the confessor.[2] It is no wonder that Savonarola gives as a reason for compiling his little *Confessionale* that the diversity of opinions and multitudes of books and canons and questions have produced such confusion that the younger and ruder confessors regard the subject as an impassable ocean on which they do not dare to embark.[3]

It was a happy thought which led the schoolmen, in this irreconcilable contradiction between the old system and the new, to devise the explanation that the penitential canons were still in force, but only for public penance in public offences, while the arbitrary penance was applicable to private penance for secret sins. Of course, there was no authority for this, but it offered a solution to the otherwise insoluble difficulty, and it was eagerly embraced without too inconvenient scrutiny into its truth. Cardinal Henry of Susa seems to have been the first to spread a knowledge of this way out of the difficulty, which he says was taught him by his master, and he was followed without scruple by the subsequent doctors, until it became a received axiom.[4] Thus the tradition of the penitential canons was saved, while the power of the keys in the hands of the confessor was left unimpaired. It was safe, moreover, for public penance by this time was becoming so obsolete that the obsolescent canons could be assigned to it without much risk of causing trouble, and an outward show of rigid and unyielding virtue was rendered compatible with steadily increasing laxity, though the very men who put forward this explanation indirectly admitted its futility, as we shall presently see.

How baseless, indeed, was any pretence of severity may be guessed

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1 Bart. de Chaimis Interrog. fol. 105*a*.

2 Summa Sylvestrina s. v. *Confessor* IV. §§ 1, 3.

3 Savonarolæ Confessionale fol. 3*b* (Taurini, 1578).

4 Hostiens. Aureæ Summæ Lib. V. De Pœn. et Remiss. § 60.—S. Bonavent. Confessionale, cap. III. Partic. 1.—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 125.—Astesani Summæ Lib. v. Tit. xxxi. Q. 2.—Weigel Claviculæ Indulgent. cap. 6.

from a single example. Even into the fourteenth century the canonists continued to give in full detail, as from some ancient Irish council, the penance to be imposed on a priest guilty of fornication, as follows. It is to last for ten years. For three months he is to be shut up, clad in sackcloth and lying on the bare ground, continually imploring the mercy of God, and is to be fed on bread and water, except on Sundays and the principal feasts, when he may have a little wine, fish and vegetables. After this he may be released but must not appear in public, lest the people be scandalized. Then for eighteen months his food is to be bread and water, save on Sundays and feast-days. He may then be admitted to communion and peace, and to the choir, but not to his functions, and to the end of the seventh year he is to fast three days in the week on bread and water, and on Mondays he must recite a psalter or redeem it with a penny. At the expiration of the seventh year the bishop may allow him to resume his ministrations, but for three years more he must fast rigorously on Fridays on bread and water.[1] No one familiar with the shameless concubinage of the medieval clergy can doubt that the application of this canon would have kept half or more of the parishes of Europe vacant; it would have rendered wholly unnecessary the efforts perpetually made by the local synods to enforce the rule of chastity by measures far less severe. Yet none of these local synods ever thought of having recourse to it, nor would the most resolute prelate have had the hardihood to make the attempt.[2] It is

[1] Cap. 5 Dist. LXXXII.—Hostiens. Aureæ Summæ Lib. V. De Pœn. et Remiss. § 60.—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. XXXIV. Q. 125. Astesani Canon. Pœnit. § 2; Summæ Lib. V. Tit. XXXI.

Azpilcueta (Comment. de Pœnit. Dist. V. Cap. *Falsas* n. 3) alludes to this penance as a thing unheard of, in evidence that the old canons were wholly obsolete, and Valère Renaud (Praxis Fori Pœnit. Lib. VII. n. 53) remarks respecting it that a thousand years would not suffice for a priest who had lived a year in concubinage.

[2] The practical view taken of concubinary priests, as expressed by Angiolo da Chivasso (Summa Angelica, s. v. *Concubinatus* §§ 2–4), is that they are suspended in the eyes of God and commit mortal sin in celebrating mass, but if the sin is secret they are not irregular. If it is so manifest that it cannot be concealed or denied, then they are suspended, but many doctors hold that this is not *ipso facto* and that a monition is needed. If the concubine is accompanied by her mother and can be reckoned as the latter's servant, then it is not notorious and a monition is certainly needed.

The little chance there was of even these proceedings can be estimated by

fair, therefore, to conclude that the other penitential canons enumerated by the canonists as still in force were equally a dead letter.

The canonists, in fact, continued to amuse themselves by compiling lists of penances of old-time severity. Though the Penitentials had virtually dropped out of sight, many of the prescriptions contained in them had been embodied in the compilations of Gratian and of Gregory IX., and had thus retained the sanction of law under the new system. These at least could not be overlooked, and collections of them were made by one canonist after another in successive works prepared as practical guides through the mazes of the new scholastic theology. S. Ramon de Peñafort, Cardinal Henry of Susa, St. Bonaventura, John of Freiburg, Astesanus de Asti, St. Antonino of Florence, Bartolommeo de Chaimis, and doubtless many others, thus drew up lists of canons varying in number from forty to fifty, which confessors were assured were essential to their equipment, for no priest could be called a priest who was not familiar with them.[1] Of these the collection of Astesanus had the most enduring authority. It came to be added to the Decretum of Gratian as though it formed part of the canon law, and, as I have already mentioned, continued to be printed in the early sixteenth century as a convenient manual for confessors.

This perpetual reproduction of the old canons was not purely a matter of blind reverence for tradition, but had a purpose which shows how baseless was the assumption that they were in force only for public penance and not for private. The priest was not required to commit them to memory purely as a mnemonic exercise, but was customarily instructed to frighten his penitent with them by telling him how prolonged was the penance due to his sins, lasting probably longer than his life, thus rendering him ready to welcome shorter terms and magnifying the mercy of the Church and the power of

Chancellor Gerson's remark, in speaking of sins that must be tolerated for the avoidance of graver evils, "Et ita de concubinariis sacerdotibus pro loco et tempore staret forte esse faciendum."—Regulæ Morales, Ed. 1488, XXIV. E.

[1] S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.—Hostiens. Aureæ Summæ Lib. V. De Pœn. et Remis. § 60.—S. Bonavent. Confessionale, cap. III.—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 125.—Astesani Summæ Lib. V. Tit. xxxii.—S. Antonini Summæ P. III. Tit. xvii. cap. 31, § 5.—Bart. de Chaimis Interrog. fol. 104.

the keys which procured him absolution on terms so much easier.[1] They were also of great utility in creating a demand for indulgences, and were largely employed to this end by the *quæstuarii* or pardoners. In the forms of sermons furnished by Tetzel to the priests whom he employed, a terrible picture is drawn of the severity of the seven years' penance due for every mortal sin committed since infancy, and the aggregate is used effectively as an argument for the purchase of the indulgence which would stand in lieu of this insufferable infliction.[2] This was not merely a saleman's puffing of his wares. Berthold, Bishop of Chiemsee, in his refutation of Luther's errors respecting indulgences, explains how the penitential canons were prescribed by the Fathers under the inspiration of the Holy Ghost, how seven years are due for every mortal sin, and how the modern mitigation of this severity is due to the use of indulgences, for the penitent must either pay in purgatory or avail himself of the papal liberality in offering this mode of escape to the faithful.[3] The fiction of the imprescriptible authority of the ancient canons has been kept up, although the council of Trent apparently gave them a deathblow in declaring that the confessor is to impose penance according to the dictates of the Spirit and his own conscience.[4] The Tridentine Catechism instructs the confessor to explain to the penitent the penalty provided by the penitential canons for his several sins, and as this is retained in the modern editions of that work it is presumably

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[1] Hostiens. Aureæ Summæ *loc. cit.*—Astesani Summæ Lib. v. Tit. xxxi.—Weigel Claviculæ Indulgent. cap. vi.—S. Antonini Summæ P. III. Tit. xvii. cap. 20.—Summa Angelica s. v. *Confessio* 6.

[2] Amort. de Indulgentiis, II. 15.

[3] Berthold. Chiemens. Theologiæ Germanicæ cap. LXXXIX. n. 4–6 (Aug. Vind. 1531).

The *Onus Ecclesiæ*, issued in 1529 under the name of John of Chiemsee, puts this more rudely—"Et quamvis canones pœnitentiales sint modo abrogati et mortui, tamen absque operibus condignis tanquam vivaces redimuntur per fictam indulgentiarum concessionem, vel magis per pecuniarum exactionem e sanguine et sudore pauperum ovium extortarum."—Amort. de Indulgentiis II. 26.

As there was no John of Chiemsee, the authorship of the *Onus Ecclesiæ* has been a disputed matter. Reusch (Der Index der verbotenen Bücher, I. 124) attributes it to Berthold, and regards the *Theologia Germanica* as a castrated revision. It was put on the Louvian Index of 1550 among the anonymous books.

[4] C. Trident. Sess. XIV. De Pœnit. cap. 8.

still the custom in the confessional.[1] S. Carlo Borromeo was at the pains of compiling a Penitential, classified according to the Decalogue, and containing hundreds of canons gathered from the collections of Theodore, Bede, Burchard, Ivo, etc., in all their ancient severity, with which he required his priests to be familiar; they were ordered to conform themselves to these as far as was expedient, and were at least to show them to the penitent to reconcile him to the lesser inflictions prescribed and to impress him with the benignity of the Church in mitigating them.[2] Azpilcueta instructs the confessor to explain that God alone knows the penance due, but the Church from of old has required seven years for every grave mortal sin; the penitent is to be asked whether he will accept; if he assents so much the better, and he may be moved to do so by the prospect of obtaining an indulgence to cancel it.[3] Valère Renaud humanely advises omission of the reference to the seven years' penance, if it is likely to cause dejection in the sinner, but, as a rule, allusion to the old canons is advisable as a means of making the penitent accept more cheerfully what is imposed, and avoid such sins hereafter.[4] Instructions more or less to the same effect are found in recent works, nor are the canons likely to be consigned to oblivion in view of the hold which they give the confessor over his penitent.[5] Father de Charmes repeats the old rule that all confessors must be familiar with them, and he reprints the Borromean Penitential *in extenso*, saying that many priests have requested him to render it accessible to them.[6] Even as recently as 1857 Bishop Zenner, in his manual for confessors, gives a condensed selection with all the old terms of prolonged penance,[7] but that the only object of this is to terrify the penitent is admitted in the remark of Benedict XIV. that any bishop who

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[1] Catech. Trident. De Pœnit. cap. 13.

[2] Acta Eccles. Mediolan. I. 580, 585 sqq. 886 (Mediolan. 1843).

[3] Azpilcuetæ Man. Confessarior. cap. xxvi. n. 19.

[4] Reginaldi Praxis Fori Pœnit. Lib. VII. n. 38, 53.

[5] Mart. Fornarii Instit. Confessarior. Tract. I. cap. 3.—Zerola Praxis Sacr. Pœnit. cap. xxv. Q. 13, 33.—S. Leonardo da Porto Maurizio, Discorso Mistico e Morale, n. xxvii.—Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* n. 49.—Bened. PP. XIV. Bull. *Apostolica Constitutio* § 23, 26 Junii, 1749.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 530.

[6] Th. ex Charmes Theol. Univers. Dissert. V. cap. 5, Q. 2, Concl. 2.

[7] Zenner Instruct. Practica Confessarii § 149.

should undertake their enforcement would attempt a manifest impossibility.[1]

The penitential canons having thus been reduced to the simple function of a bugbear, the confessor was left to the exercise of unbounded discretion, with the advantage of being able to threaten the recalcitrant with the full measure of the ancient severity, or to condone the offences of the wealthy and liberal, or to exercise a petty and exasperating tyranny on the weak and defenceless. Our means are scanty of penetrating into the secrets of the confessional, but we know how rare are the natures that can be trusted with irresponsible power, and we also know that the process of selection through which benefices were filled, or vicars installed, during the middle ages was not such as to entrust such natures often with the cure of souls. To the sensual, the brutal, the avaricious or the malicious, the confessional thus offered ample opportunities for the gratification of their propensities, and we cannot doubt that frequent advantage was taken of such opportunities, though the sufferers, for the most part, necessarily endured their wrongs in silence. Accidentally a brief of Benedict XII. has been preserved which illustrates the manner in which the confessional might be and was abused. It is addressed to a bishop, and recites that the bearer had appealed to him from the Official of the see, who, for a carnal sin of old date recently confessed to him, had imposed on her the penance of walking for forty days in the market place of the episcopal city, naked from the navel up, and wearing on her head a paper inscribed with her sin; wherefore the pope humanely orders the penance to be moderated, taking into consideration the labor and expense of her pilgrimage to Rome.[2] Of course it was irregular at that time to impose a public penance for a private sin, but when so indecent an outrage could be perpetrated by so high a prelate as an episcopal Official, we can imagine what a hell on earth might be a parish confided to a priest or vicar of evil disposition. Such hardships fell inevitably on the timid and conscientious—those who dared not recalcitrate or were overawed by the spiritual authority of their pastors. To the reckless sinner, who was content if he could be promised escape from perdition, and to the rich whose liberality could purchase exemption, the system offered salvation on

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[1] Bened. PP. XIV. De Synodo Diœcesan. Lib. XI. cap. xi. n. 4.

[2] Baluz. Capit. Regum Francor. II. 1031 (Ed. Venet. 1773).

the easiest terms, and the confessional had few terrors save the humiliation of secretly admitting the commission of sin. The tendency, moreover, was wholly in the direction of laxity, save when the evil passions of the confessor might lead him to abuse his power, for the new theories as to the virtue of the sacrament rendered penance a vastly less important factor of pardon than under the old system of winning reconciliation by prolonged repentance and maceration.

An early indication of the profound change impending in the administration of penance is afforded, about the middle of the twelfth century, by Cardinal Pullus, who informs the penitent that if the confessor imposes on him a penance beyond his strength he should refuse to accept it.[1] How the laxity thus encouraged increased rapidly is seen soon afterwards in Peter of Poitiers, who prescribes for fornication a simple fast in which eggs and cheese are allowed, and who recommends humanely that special consideration should be shown to those who labor for their daily bread. Moreover, extreme care must be exercised to guard against any suspicion that may be caused by the performance of the penance, especially in the case of married folk.[2] This, which became an axiom in the confessional as the seal grew to be rigidly enforced, necessarily limited greatly both the amount and the character of the penance enjoined, for there were scarce any but moderate prayer and almsgiving that might not betray the penitent—pilgrimages, the discipline, hair-shirts, and even fasting were all noticeable and liable to cause remark. Innocent III. endeavored to check this tendency by counselling only moderation—the penance should fit the gravity of the sin and the degree of repentance, being not so severe as to cause despair nor so light as to encourage sin.[3]

Generalities such as this could have little practical influence, and Innocent's introduction of enforced confession, in the Lateran canon of 1216, gave a natural stimulus to the growing laxity, for, on the one hand, it brought crowds of unwilling penitents to the confessional, and, on the other, there was an inevitable desire, on the part of even the strictest churchmen, to disarm the opposition excited by

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[1] R. Pulli Sent. Lib. VI. cap. 51.

[2] Morin. de Pœnit. Lib. VII. cap. 22; Lib. X. cap. 25.

[3] Innoc. PP. III. Serm. I. De Consecratione Pontif.

the new rule and to render its enforcement as easy as possible. Cæsarius of Heisterbach, though by no means a high authority in theology, is an excellent guide as to the tendencies of the period, and we can trace them in his exhortations to confessors to deal indulgently with penitents and to impose on them only such penance as they will readily accept.[1] The same disposition is shown in the instructions to parish priests by various councils of the thirteenth and fourteenth centuries.[2] The result of the current teachings is expressed by Duns Scotus, who tells us that if the penitent is a poor man, dependent on his daily labor, he cannot be required to give alms or to fast, but his customary work may be enjoined on him as penance, and he may be told to perform it in remission of his sins. If he is rich, involved in carnal sins and so delicate that he cannot be persuaded to fast or to mortify the flesh, he should be induced to pray or give alms or undertake such penance as he may be expected to perform, and not fall into fresh mortal sin by its omission. Moreover, if he will not accept any penance from the priest, and yet expresses some regret for his sin, and a firm resolve to sin no more, he is to be absolved, telling him of the penance due and that what he does not perform here he must make up in purgatory.[3]

Under this system it became a general aphorism that, if the penitent would accept nothing more, a single Paternoster or Ave Maria should be imposed, and on his agreeing to it, absolution should be granted, leaving him to take the chances of purgatory,[4] for it was

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[1] Cæsar. Hiesterbac. Dial. Dist. III. cap. 50, 52.

[2] Statut. Eccles. Cenomanens. ann. 1247 (Martene Ampl. Coll. VII. 1379).—Statut. Synod. Remens. Sec. Locus Præcept. IV. (Gousset, Actes etc. II. 540).—C. Suessionens. ann. 1403 (Ibid. 631).—Statut. Jo. Episc. Nannetens. ann. 1389, cap. xii. (Martene Thesaur. IV. 985).

The council of Clermont, in 1268 (cap. 7), while urging moderation in the imposition of penance, deprecates the custom of some priests who prescribe satisfaction so minimized that it is almost null (Harduin. VII. 595, 599).

[3] Jo. Scoti in IV. Sentt. Dist. XV. Q. 1.—Gab. Biel in IV. Sentt. Dist. XVI. Q. ii. Art. 3, Dub. 1.

[4] Hostiens. Aureæ Summæ Lib. V. De Pœn. et Remiss. § 58.—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 135.—Synod. Lingonens. ann. 1404 (Bochelli Decr. Eccles. Gallic. Lib. II. Tit. vii. cap. 109, 110).—S. Antonini Summæ P. III. Tit. xvii. cap. 20.—Bart. de Chaimis Interrog. fol. 105*a*.—

assumed that the sacrament released him from hell, however dubious might be the repentance that refused to render greater satisfaction to an offended God. So completely had the sacramental theory superseded all the older teachings of Christianity that the sacrament was expected to do for the sinner what he would not do for himself. The sacrament became the main thing in the eyes of both priest and penitent; the former was taught that the chief object of the confessional is to avoid driving the sinner to despair, and that any terms must be made with him rather than allow him to depart hopeless of pardon and doomed to hell.[1] The whole matter is exclusively in the hands of the Church to regulate as it may see fit, for it stands in place of God upon earth, though no evidence of this could be produced except the fact of its practice.[2] When such were the rules of the confessional it would seem superfluous to recommend that a sinful monk should be allowed to escape with a lighter penance than a layman, on the account of his profession;[3] but, on the other hand,

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Savonarolæ Confessionale, fol. 64*a*.—Summa Sylvestrina s. v. *Confessor* IV. § 3. —Caietani Opusc. Tract. v. De Confessione Q 3.

As John Myrc says, in his "Instructions to Parish Priests,"

Gef thou ley on him more
Thenne he wole assente fore
Alle he wole caste hym fro
And schende hym-selfe, I telle the so.—(vv. 1643–6).
Better hyt ys wyth penaunce lutte
In-to purgatory a mon to putte,
Then wyth penaunce over myche
Sende hym to helle pitche.—(vv. 1659–62).

Bartolommeo de Chaimis even adds (*ubi sup*) that if he refuses to accept any penance he is to be absolved, provided he says that he feels displeasure at having sinned and intends not to relapse.

[1] R. de Flammesburg (Morin. de Pœnit. Lib. x. cap. 25).—Jo. Scoti in IV. Sentt. Dist. xv. Q. 1; Dist. xix. Q. 1.—Astesani Summæ Lib. v. Tit. xxxi. Q. 2.—Synod. Lingonens. ann. 1404 (Bochelli *loc. cit.*).—Summa Sylvestrina s. v. *Confessor* IV. § 3.—Aurea Armilla s. v. *Confessio Sacram.* n. 29.

[2] Ambros. Caterini adv. Lutheri Dogmata Lib. III. (fol. 74*a*)—"Ecclesia pœnas ipsas atque satisfactiones, cum sit loco Dei in terris, quasi componens cum delinquente, suo ponit arbitrio, vel in oratione, vel in jejunio vel eleemosyna. Hæc probatur ipso facto."

[3] Postillator Raymundi in Summa Lib. III. Tit. xxxiv. § 5.

Favoritism of this sort is manifested while yet the severer penances were enjoined. An abbot struck a slave, who died in six months from the effects of

Cardinal Henry of Susa suggests that clerics should be penanced more heavily than the laity, because of their evil example, and moreover because it is rare to find a cleric who is truly repentant.[1]

The council of Trent recognized fully the illusory character of the laxity which had become universal. Its mission was to reform the Church, so that it could be defended from heretic assaults, and on this subject it spoke in no uncertain terms. It instructed confessors to impose satisfaction proportionate to the sins confessed; to remember that it is not only a medicine for the future but a punishment for the past, and that when they prescribe the most trifling observances for the gravest offences they become sharers in the sins of their penitents.[2] In this, as in so much else, the council spoke to deaf ears. Even in the Catechism issued at its command, the priest is instructed that of all kinds of penance the one specially to be prescribed is to devote certain days to prayer and to pray for all, especially for the dead.[3] It need not surprise us therefore to find that the injunctions of the council were disregarded and that there has been no change in practice. It is true that some moralists propound the rule that the penance must be proportioned to the character of

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the blow. Rumold, Bishop of Constance, imposed a penance on him and sent him to Alexander II., who ordered his restoration to his office and that after a year's penance he might resume his functions.—Alex. PP. II. Epist. 64.

[1] Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remiss. § 60.

[2] C. Trident. Sess. XIV. De Pœnit. cap. 8.

[3] Catech. Trident. De Pœnit. cap. 13.

It is not without interest to observe that prayer, which should be the willing and earnest outpouring of the soul to its Creator, is universally treated as a punishment, vindictive in character. Just before this prescription of prayer as the chief penance, the Catechism had enunciated the rule that all penitential works should be punitive and vexatious—"Ut ejusmodi opera suscipiantur quæ natura sua dolorem et molestiam afferant. Cum enim præteritorum scelerum compensationes sint atque redemptrices peccatorum omnino necesse est ut aliquid acerbitatis habeant." The mechanical formalism of the observance, moreover, is seen in the remark of Alexander Hales (Summæ P. IV. Q. XXVI. Membr. iii. Art. 2, § 5) that it is unnecessary to understand the prayer—"Quando ergo quæritur utrum tenemur intelligere quod oramus? Dicendum quod de actu speciali est verum; de eo autem quod petitur non oportet, nisi in magnis literatis et provectis. Nec isti etiam tenentur habere intellectum orationis."

San Filippo Neri, however, in his *Consigli*, wisely points out the uselessness of reduplicated rosaries and other prayers, if they are not performed in a spirit of earnest seeking after God and desire to obey his commandments.

the penitent, but they explain this away by pointing out that if he is conscientious heavy penance is superfluous, while if reckless he will not perform it.[1] Gobat quotes approvingly from Coninck the dictum that the confessor must never impose a penance which he thinks the penitent, through any weakness, may fail to perform.[2] These writers represent the laxer section of theologians, which has become predominant, and which continues to teach that if the penitent will accept no more a single Lord's Prayer or Hail Mary will suffice, and that he must never on this account be turned away in despair. Liguori is particularly successful in arguing away the Tridentine prescriptions, nor does he recognize his practical admission of the failure of the sacramental system when he urges that most penitents, if they do not perform the penance enjoined, regard the confession as valueless, wherefore they resume their sinful life, are deterred from returning to the confessional, and are thus hardened in sin. A simple sign of the cross, he says, conjoined with the sacrament, suffices as satisfaction.[3]

Thus the penitential observances which, for the earlier half of the existence of Christianity, formed so vast a portion of discipline have been practically eliminated and replaced by the sacrament. So unimportant have they become that Gobat feels no shame in admitting that he sometimes forgot to impose any satisfaction and had to be reminded of it by the penitent after absolution had been conferred, nor was this uncommon, for Graffio feels obliged to reprove the ignorant who were in the habit of granting absolution as soon as the confession was finished, without a word of exhortation or imposition of penance.[4] Under these circumstances the question became merely

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[1] Henriquez Summæ Theol. Moral. Lib. VI. cap. xxi. n. 2.—Dom. Soto in IV. Sentt. Dist. XX. Q. ii. Art. 3, Concl. 2.—Reginald. Praxis Fori Pœnit. Lib. VI. n. 35.

The eight reasons for imposing light penance, drawn up by Gobat, are equally comprehensive and include all classes of penitents.—Clericati de Pœnit. Decis. XXXIV. n. 17–19.

[2] Gobat Alphab. Confessar. n. 745.—In explaining away the Tridentine canon, Gobat does not appear to realize how destructive of the system is his common-sense remark that we do not know how many fasts will satisfy God for ten lies or twenty blasphemies.

[3] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 507, 509–10, 514; Praxis Confessarii, n. 8, 11, 12.

[4] Gobat Alphab. Confessar. n. 273.—Jac. a Graffiis Praxis Casuum Reservator. Lib. II. cap. xxvi. n. 5.

a speculative one whether absolution can be granted without satisfaction; this was finally admitted, and the moralists contented themselves by invoking purgatory to compensate for the mutilation of the sacrament by the omission of one of its integral parts. This objection is removed by defining satisfaction to be an integral but not an essential part of the sacrament, and even purgatory can be escaped without penance, for the penitent can himself effect this by prayer, since prayer can effect the release of the souls of the dead, and there is no reason why the living cannot do this for themselves.[1]

What, under such a system, is considered adequate satisfaction for the most heinous offences is seen in the penances suggested by Benedict XIV. for a man who debauches his wife's sister. If he is a peasant, young and healthy but poor, he may for three months daily recite fifteen Paters and Aves with arms outstretched; if rich, he can fast once a week and give alms in proportion to his means; if old and poor, a rosary a week for three months suffices.[2] It would not be easy to set a lower value on God's pardon. If a confessor, however, has scruples about such merciful use of the power of the keys

[1] Palmieri Tract. de Pœnit. p. 428.

[2] Bened. PP. XIV. Casus Conscientiæ, Julii, 1736 —See also the list of trivial observances which Liguori (Praxis Confessar. n. 14) prescribes as suitable.

Still the thirst for ascetic maceration has not entirely died out. Leone (Praxis ad Litt. Maior. Pœnitentiar. p. 355), about the middle of the seventeenth century, alludes, as a fitting penance for a lay patron who bestows a benefice simoniacally, the use of the hair shirt, the discipline frequently applied, psalmody, fasting, visiting distant churches, frequenting divine service, etc. The *cilix*, or hair shirt, is exceedingly severe—"cilicia juvenem mortificant et senem octuagenarium vel debilis vel infirmæ valetudinis lacerant et fere ad nihilem redigunt" (Ibid. p. 322). He also speaks (p. 69) of iron chains worn around the waist or thighs or arms as medicinal penance to repress carnal desires. Chiericato, writing at the end of the century, says (De Pœnit. Decis. v. n. 1, 2, 8) that for two hundred years the hair shirt has been abandoned for another form consisting of a girdle of iron or brass wire, quite as painful but less damaging to health. Cardinals Ximenes, Borromeo, Baronius and Bellarmine are said to have worn it either regularly or as a matter of penance. Even in the present century Frassinetti (New Parish Priest's Practical Manual, pp. 391–2) speaks of hair shirts, chains and the discipline as matters which cannot be censured without censuring the saints of old, though they never should be practised with those of weak constitutions or without believing that God has called the penitent to a life of extraordinary mortification. Reuter (Neoconfessarius instructus n. 16) includes them among the penances indicated for carnal sins.

he is offered the refuge of satisfying his conscience in such cases of atrocious crime by imposing a heavy penance, conditioning only a venial sin for its non-performance, for he has the power of enjoining satisfaction *sub præcepto levi* or *sub præcepto gravi;* he occupies the place of Christ and has unlimited discretion.[1]

Under this discretion there is scarce anything that may not figure as satisfactory penance. That attendance on mass should be sometimes enjoined as such would appear not be particularly respectful to the Eucharist, and if two are enjoined on a feast-day it is a disputed point whether the injunction is fulfilled by listening to two simultaneously celebrated on different altars. If a rosary is imposed as well as hearing mass, the time may be utilized by reciting it during the celebration. Taking communion may be enjoined, or even abstinence from it or from other good works, which in view of the grace imparted by the sacrament would seem to be an indifferent mode of contributing to the sinner's improvement, though we are told that it was a favorite injunction of San Filippo Neri.[2] There is a curious question whether a penance can be imposed on a priest of performing the offices for the dead for the benefit of the souls in purgatory, thus exacting from the rites a double duty—for the soul of the penitent and for the departed. In the system which prevails of rigidly weighing and counting every molecule of merit, some doctors hold this not to be permissible, while it is approved by others of equal authority.[3] When a confessor has to reprove a penitent he may impose as penance a patient listening to the admonition.[4] Whether marriage can be imposed as a penance for those addicted to carnal sins is a disputed question.[5]

A point which has been the subject of prolonged debate is whether the performance of works of precept—the observances required by

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[1] Mart. Fornarii Institt. Confessar. Tract. I. cap. 3.—Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. Dub. 4, Art. 1, n. 8.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1249.—S. Alph. de Ligorio Theol. Moral. Lib. V. n. 515.—Bened. PP. XIV. Casus Conscientiæ, Dec. 1742, cas. ii.

[2] Ibid. Julii, 1743, cas. ii.—Summa Diana s. vv. *Pœnitentiam imponere* n. 4; *Pœnitentiam commutare* n. 18, 20.—Clericati de Pœnit. Decis. XXXIV. n. 13.—St. Alph. de Ligorio Theol. Moral. Lib. VI. n. 514.—Voit Theol. Moral. I. 203–4.

[3] Summa Diana s. v. *Pœnitentiam imponere* n. 2.

[4] Reuter Neoconfessarius instructus n. 17.

[5] Gobat Alphab. Confessarior. n. 752.

the Church of all the faithful, such as attendance at mass on Sundays and feast-days—can be prescribed and accepted as satisfaction in the sacrament. Aquinas argued that they could, Pierre de la Palu that they could not, and St. Antonino holds with Aquinas.[1] Cardinal Caietano regards the question as open, though he says that most doctors were in the negative and that confessors never prescribed them.[2] After the council of Trent, increasing laxity inclined the balance to the affirmative side. It is true that Henriquez says the authorities are at variance, and he ventures no opinion of his own, while Bishop Zerola pronounces in the negative,[3] but Azpilcueta asserts decidedly that although the penitent is not at liberty to offer works of precept in discharge of penance enjoined, yet the confessor can prescribe them as penance, and Gobat argues that it is often prudent to enjoin such works as penance on negligent penitents.[4] In modern times it has thus become the prevailing opinion that works of precept may be imposed as penance, and this may be regarded as the accepted practice.[5] As Ferraris remarks, it affords a convenient method of dealing with great sinners whose fragility or occupations prevent the imposition of proper penance.[6] Benedict XIV. even eliminates the necessity of any penance in those who observe the precepts of the Church. He puts the case of a dying man who has never performed voluntary penance, and who thinks that he has satisfied for the temporal punishment due to his sins by offering in satisfaction his attendance at church on feast-days, his fasts and other observances of precept; it is probable that he is right, for works of supererogation are not necessarily required for remitting the temporal punishment of sins remitted *quoad culpam*.[7]

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[1] S. Antonini Summæ P. III. Tit. xiv. cap. 20.

[2] Caietani Opusc. Tract. VI. Q. 1.

[3] Henriquez Summæ Theol. Moral. Lib. VI. cap. xxi. n. 3.—Zerola Praxis Sacr. Pœenit. cap. xxvi. Q. 16.

[4] Azpilcuetæ Man. Confessar. cap. XXVI. n 24; De Pœnitentia Dist. VI. cap. 1, *In Principio* n. 40–42.—Gobat Alphab. Confessar. n. 748.

[5] Reginald. Praxis Fori Pœnit. Lib. VII. n. 28–30.—Escobar Theol. Moral. Tract. VII. Exam. iv. cap. 7, n. 40.—Clericati de Pœnit. Decis. XXXIV. n. 10.—La Croix Theol. Moral. Lib. VII. P. ii. n. 1229, 1243.—St. Alph. de Ligorio Theol. Moral. Lib. VI. n. 513.

Reuter (Neoconfessarius instructus n. 16) adds that some work not of precept should be adjoined to render the penance more vindictive.

[6] Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* Art. III. n. 37.

[7] Bened. PP. XIV. Casus Conscient. April, 1745, cas. ii.

It is not to be supposed that so complete a revolution in the doctrines and practice of the Church could be accomplished wholly without protest or opposition. Hardly had it commenced, in the twelfth century, when Peter Cantor sought to revive the ancient rigor. Either God or man, he says, must punish: if God, it is in purgatorial fire, of which the lightest touch is worse than all the torments of the martyrs; if man, the penance must equal as nearly as possible the pains of purgatory, otherwise the penitent does not truly repent, and therefore there are but few true penitents; all pleasures of the flesh are to be abandoned, sleep is to be shortened by vigils, gluttony to be cured by fasting, drunkenness by unslaked thirst; in penance God delights in human suffering.[1] In the next century William of Paris is very severe on the confessors who impose insufficient penance; they should follow the old canons as nearly as the fragility of the age will permit. Penance should be such as wholly to extinguish all sinful pleasures and remove all occasions of sin; the penitent must abstain not only from what is unlawful but also from much that is lawful, especially from trade which scarce can be followed without sin. His diet must be spare, his couch hard, his sleep short, his garments vile, his prayers incessant, his speech grave, his walk humble; he must bear his cross and deny himself.[2] Even in the fourteenth century Piero d'Aquila shows a glimpse of recognition of the infinite meanness of the methods and details of so-called satisfaction in comparison with the majesty of God and the heinousness of the revolt against him implied by sin.[3] By this time, however, the practice was virtually settled and laxity was accepted as a matter of course. Even Chancellor Gerson, perhaps the most rigid moralist of the fifteenth century, can only say that it is foolish for a penitent to refuse all penance, but yet he must be absolved if he does so through delicacy of body and not through heretically denying the existence of purgatory.[4] Dr. Weigel assents, with the addition that the penitent is to be warned that he will have to make it up in purgatory.[5] At the end of the century the reformer Savonarola tells us that if

[1] P. Cantor. Verb. Abbreviat. cap. 146.
[2] Guillel. Paris. de Pœnit. cap. 25; de Sacram. Pœnit. cap. 19, 20.
[3] P. de Aquila in IV. Sentt. Dist. xv. Q. 1.
[4] Jo. Gersonis Regulæ Morales (Ed. 1488, xxv. G.).
[5] Weigel Claviculæ Indulgent. cap. 6.

the penitent shows little contrition the penance should be light, especially if it is doubtful whether he will perform it; if he shows great contrition it should be light, because the contrition is in itself satisfaction; if he is moderately contrite, it should be moderate.[1]

The discussions attendant upon the Reformation were not without influence, as the utterances of the council of Trent attest, and although these were speedily argued away, as we have seen, by the predominant school of moralists, there yet were some who took them seriously. S. Carlo Borromeo was one of these, and he ordered confessors to observe the portentous Penitential which he compiled (p. 179) as closely as they could without risking the refusal of the penitent or his non-observance of what might be prescribed.[2] About the same period commenced the long strife which was to render the name of Jansenist so odious to papal ears. In 1567 Pius V. condemned the seventy-nine propostions of the Louvain Doctor Michael Bay—a condemnation which had to be repeated by Gregory XIII. and Urban VIII. There was nothing in them that bore directly upon the abusive laxity of absolution with insufficient penance, but one or two of them assumed that no penance could suffice as worthy satisfaction to God for sin and that remission of temporal punishment could only be gained through the satisfaction of Christ.[3] So in the five propositions of Cornelis Jansen, Bishop of Ipres, condemned by Innocent X. in 1653, by Alexander VII. in 1664, and by Clement XI. in 1705, there is no allusion to the subject.[4] Yet the sectaries whose obstinacy thus called forth these repeated denunciations were

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[1] Savonarolæ Confessionale, fol. 63–4.—The old rule was that deficient contrition must be compensated for by heavier penance.—Adami Perseniæ Abbatis Epist. XXVI. (Migne, CCXI.).

Erasmus represents a dissolute youth touched with contrition and making a full confession to a papal penitentiary, who imposes on him the penance of reciting a *Miserere* on his knees before an altar and giving a carlino to a beggar, and on his exclaiming at its insufficiency tells him that if he amends his life it is sufficient; if he does not, his sin will inflict sufficient punishment (Colloq. Adolescentis et Scorti). This doubtless conveys the ideal of Erasmus, but it has the drawback of suggesting that the whole penitential system is superfluous.

[2] S. Caroli Borromei Instruct. pp. 68, 78, 81.

[3] Prop. 59, 77.—Pii PP. V. Bull. *Ex omnibus*, 1567; Urbani PP. VIII. Bull. *In eminenti*, 1644.

[4] Clement. PP. XI. Bull. *Vineam Domini*, 1705.

religionists of a more rigorous type than those who followed the fashionable easy-going Probabilism of the day and were not disposed to widen and level the steep and narrow path to heaven. Condemnation at Rome naturally drove them to a vigorous assertion of the liberties of the Gallican Church, though only a portion of them became absolute schismatics in separating the see of Utrecht from Catholic unity, and even these professed still to regard the pope as the head of the Church. The rest formed a mutinous and highly-objectionable body, to whom were affiliated, to a greater or less degree, all who looked with disfavor on the prevailing and progressive laxity. Allusion has already been made (p. 17) to the strife over attrition and the persecutions occasioned by the bull *Unigenitus*, and those who thus insisted on charity as an element in sufficing attrition were not likely to be satisfied with practical nullification of penance. It was natural that their opponents should accuse them of closing by their rigidity the avenues to God and of abandoning the mass of mankind to despair by their revival of the Augustinian doctrines of grace and predestination.[1] There was, however, no definite line between them and their opponents: the name of Jansenist was never accepted by them, but was used by the Jesuits as an opprobrious term to designate all who advocated greater strictness in the ministration of the sacraments. The movement was simply a protest against the relaxed doctrine and practice of the day, an effort within the Church to revive its ancient discipline; it denounced the casuists and moralists as Laxists, and its members in turn were stigmatized as Rigorists. Though France was their headquarters, they were to be found every-

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[1] The good Redemptorist, Father Müller, exulting in the triumph of Liguori over the Jansenists, can hardly find words strong enough to express his detestation of their teachings—"Morose and austere as they are, the Jansenists point out the way of salvation, but they strew it with difficulties almost insurmountable—angular stones, sharp blades, and burning coals—all these must be encountered. . . . I am no longer amazed at the excesses of the National Assembly since I see so many Jansenists on its benches. Still less am I surprised at the excesses of the Revolution since among its terrible actors figure so many ancient Jansenists. These men had hearts of steel; their actions were eloquent of the fatalism and despair of their doctrines."—The Catholic Priesthood, II. 178, 181.

Father Müller is not the first to identify the Revolution and Jansenism. As early as 1794 the ex-Jesuit Bolgeni issued his *Problema se i Giansenisti siano Giacobini*.

where, and for a century and a half they waged an unremitting war of books and pamphlets against the self-indulgence of human nature with a pertinacity that must win respect for their courage and convictions however little testimony it may bear to their worldly wisdom.

The Rigorists thus held that the council of Trent meant what it said on the subject of satisfaction. Among their earlier spokesmen was Willem van Est, who quotes the Tridentine utterance as binding and insists on the imposition of penance proportionate and suitable to the sins submitted for remission.[1] More definitely Jansenist and aggressive were the Abbé de S. Cyran and Antoine Arnauld, who required long and rigorous preparation for the reception of the sacraments—some of the nuns of Port Royal, it is said, were allowed to die without the viaticum because they were insufficiently prepared.[2] The learned Father Morin was a Rigorist, and his exhaustive history of the sacrament of penitence pitilessly exposed the variations which had occurred in its evolution. Juenin belonged to the same school; he devotes a long argument to prove that under the Tridentine rule the penance should be proportioned to the sin, and he protests against the confessors who for grave offences impose merely a rosary, or fasting for a day or two, or the recital of the penitential psalms. To those who asserted that the old discipline was obsolete and that custom makes law, he replies that no custom can rescind a divine law.[3] Christian Wolff complains of the excessive laxity of the day in the imposition of penance, and calls for its correction.[4] Cardinal Aguirre repels indignantly the imputation of Jansenism, but he denounces forcibly the impious pseudo-penitents who abuse confessors as butchers of souls for imposing heavy penances, when those prescribed by the most rigid do not equal in duration or harshness one-hundredth part of what was formerly in universal use.[5] Noël Alexandre labors strenuously to prove by the ancient doctors

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[1] Estii in IV. Sentt. Dist. xv. § 14.

[2] Addis & Arnold's Catholic Dictionary, s. v. *Jansenism*. Arnauld's work, *De la fréquente Communion*, in which he defined these principles, was approved by twenty French bishops, and, when the Jesuits denounced it at Rome, the Inquisition, in 1645, unanimously refused to condemn it.—Döllinger und Reusch, Moralstreitigkeiten in der römisch-katholischen Kirche, I. 65.

[3] Juenin de Sacramentis Diss. VI. Q. vi. cap. 7.

[4] Chr. Lupi Dissert. de Indulgentiis cap. vii.

[5] Aguirre Diss. de Concil. Toletan. III. n. 159 (Concil. Hispan. III. 256).

and the Tridentine decrees that penance should bear some proportion to the sin.[1] Van Espen was the most learned canonist of his day, with strong Jansenist leanings, for he lost his position at Louvain in consequence of defending the election, in 1723, of Stenhoven, the schismatic Archbishop of Utrecht. He argues that the Tridentine decree restored the ancient rules to full vigor, and he warns all confessors to observe the same care in the imposition of penance as did the Fathers, to whom they are in no wise comparable either in learning or holiness.[2] Habert, the author of the "Pratique de Verdun," the so-called "Pratique impraticable," was no Jansenist, but a Rigorist. He is eloquent in insisting on the evils of the customary laxity. The priest who is fearful of driving his penitents to seek another confessor is merely making a pact with the enemy. The penitent so treated never improves; after six hundred confessions he is still given to the same sins, increasing day by day. The unworthy indulgence shown by so many confessors injures not only individuals but the whole Church, for it is the cause why sinners are not reformed, the sacraments are polluted and the divine and ecclesiastical laws are neglected. Yet the penances recommended by Habert show how far was this rigoristic school from seeking to restore the ancient severity, and how merely nominal were those of the Laxists when these were regarded as rigorous. The prescriptions comprise short prayers at rising, directed against the prevailing sins, frequent examination of conscience and confession, with assiduous attendance at church; if necessary, the prayers can be rendered more onerous by special postures during their recital. Fasting is for grave sins, but it is trivial—abstaining from a meal or from wine and flesh, but to be so managed that the family or comrades may not suspect it; bread and water are reserved for the most heinous offences, and perhaps some short pilgrimage may be desirable on a

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[1] Summæ Alexandrinæ P. I. n. 602–13.

[2] Van Espen Jur. Eccles. Univers. P. II. Tit. vi. cap. 4. n. 6, 17.

It was evidently with the object of checking confessorial laxity that the Jesuit Casalicchio made his collection of terrible examples. Thus a confessor, who had by trivial penances encouraged a penitent to continue a life of sin, is condemned to bear him on his shoulders throughout eternity, both enveloped in flames. In another similar case the dead penitent rises from the tomb, reproaches his confessor in the church, flays him alive, and both are carried off by demons.—Avvenimenti prodigiosi contro quelli che malamente si confessano, pp. 18, 19 (Venetia, 1697).

Sunday or feast-day which will not interfere with labor. Besides these, various works of charity and mercy may be enjoined, or practices of self-mortification, or exercises to strengthen the moral character or overcome besetting vices; thus idle women may be required to sew or knit or take care of their families, and so on with an endless number of special devices that may be varied infinitely.[1] The slight relation which all this bears to the discipline of the eleventh century shows the magnitude and completeness of the revolution which had occurred, but is evident that such a system in the hands of a wise pastor, with a personal knowledge of his subjects, might be made the source of no little moral improvement. Father Concina was another Rigorist, though no Jansenist, who carried on an unsparing warfare with the casuists and probabilists. He bitterly deplored the prevailing and increasing laxity, and appealed to the Tridentine decrees and Catechism to prove that satisfaction should be in some sort proportioned to sin. A short prayer, he argues, can scarce be called a punishment, and when it is imposed for the gravest sins it ought to be at least supplemented with interior fervor, but unfortunately, he adds, the spirit of repentance is well-nigh extinct among Christians.[2] Dr. Challoner was a teacher of the same school, who quoted the council of Trent to prove that the Church disapproves of light penance for grievous sins.[3]

Thus far the Holy See had taken no part in the controversy between the Rigorists and the Laxists over the sufficiency of satisfaction. It had condemned the doctrinal views of Bay and Jansen and Quesnel, and some of the practices of the latter, but had avoided any definition as to the important question of the construction to be put on the Tridentine decree; but, when the time should come for such a decision, there could be no doubt as to what would be its nature, for the opposition to Jansenism was all-powerful at Rome, and the very name was so ominous of ill that it sufficed to condemn anything to which it could be applied. The opportunity came with the reforms of Leopold I. of Tuscany. Leopold himself disclaimed all addiction to Jansenism,[4] but when he included the *Reflexions*

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[1] Habert Praxis Sacr. Pœnit. Tract. I. cap. ii. n. 3, 5; Tract. V. Reg. 1, 2.

[2] Concina Theol. Christ. contracta, Lib. XI. Diss. ii. cap. 8.

[3] Challoner's Catholic Christian Instructed, chap. IX.

[4] Francesco Scaduto, Stato e Chiesa sotto Leopoldo I. p. 79 (Firenze, 1885).

Morales of Quesnel among the books to be printed and distributed to all parish priests it was difficult for Rome to acquit him of the charge, especially as he proposed to reduce the power of the Holy See to its ancient limits, to remove from the churches all images and pictures and all altars save one, to have the sacraments administered in the vernacular, with other changes equally subversive of existing conditions.[1] Scipione de' Ricci, Bishop of Pistoia and Prato, the chief instrument in these proposed reforms, was unquestionably a Jansenist, and moreover a strenuous asserter of the superior authority of the State.[2] Leopold acted on these principles, and there was nothing lacking to render the revolt odious and menacing to Rome, coupled as it was with the somewhat revolutionary proceedings of his brother, the Emperor Joseph II.

The reformers could scarce omit from their program the notorious nullity of penance as customarily enjoined. In 1786, Guiseppe Pannilini, Bishop of Chiusi and Pienza, in a Pastoral Instruction, warns his priests not to convert the sacrament of penitence into a mere sacrament of confession. The ancient canons have never been abolished, and the complaints of penitents who think the discipline too rigid are to be disregarded.[3] The synod of Pistoia, under Ricci, was equally outspoken. To impose a few prayers and a slight fast after conferring absolution seems to be only a desire to preserve the mere name of penance in the sacrament, rather than a method of increasing the fervor of charity, which should precede absolution.[4] It was a well-meant effort to revive the ancient discipline of the Church, but, like all efforts that fail, it only served to confirm the system against which it was a protest. It would be vain to speculate what would have been the result of Leopold's aggressive reforms had he been able to render them permanent; as it was, the Fates

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[1] Lettre Circulaire de S. A. R. Pierre Léopold Joseph, Grand-Duc de Toscane aux Evèques de ses États, 26 Janv. 1786.

[2] Ricci allowed to be printed at Pistoia, in 1786, Goudvert's "Gesù Cristo sotto l'Anatema," in which all the propositions condemned in the bull *Unigenitus* are proved to be in accordance with Scripture and the Fathers. In a Pastoral Instruction, in 1784, he argued that the sovereignty of the State is absolute; the authority of the Church is merely persuasive; it has no external jurisdiction and no coercive power.—Istruzione Pastorale di Mgr. Scipione de' Ricci, 6 Febb. 1784 (Napoli, 1788, p. 21).

[3] Istruzione di Mgr. Vescovo di Chiusi e Pienza, § xxxv. (Firenze, 1786).

[4] Atti e Decreti del Consiglio di Pistoja, p. 148.

willed otherwise. Called to the head of the Holy Roman Empire by the death of Joseph II., he left Tuscany under the rule of a reactionary regency and Ricci was abandoned.[1] The outbreak of the French Revolution warned sovereigns to seek, in close alliance with the Church, every means to buttress their tottering thrones, and the rebellion against its authority which in Germany, Tuscany and Naples had foreshadowed results so important, came to an inglorious end. Ricci was forced to resign his bishopric, and, after many persecutions, to sign a retraction of some kind, his adversaries, the curialists, congratulating him mockingly on the modern tenderness of the Church, which spared him the rigor of the ancient discipline.[2] The last restraint was removed by the death of Leopold, February 29, 1792. Ricci's successor in the see of Pistoia, Francesco Falchi, a creature of the curia, made haste to sweep away every trace of the reform, ordering all his priests to conform themselves to Rome, to use the discipline prescribed in the old synods and to employ the old catechisms.[3] The curia proceeded to secure the fruits of victory, and, in August, 1794, Pius VI. issued the well-known bull *Auctorem fidei*, in which the definitions of the synod of Pistoia were one by one condemned. Its utterance cited above on the subject of trivial penances was declared to be false and rash, and insulting to the common practice of the Church in so far as it implied that penance was imposed to supplement defects in reconciliation rather than as truly sacramental and satisfactory for the sins confessed.[4] The condemnation was a trifle vague, but it answered its purpose. There was no word upholding the Tridentine rule that penance must be proportioned to sin; the system of the Laxists was tacitly approved, and they had the field of the future.

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[1] Scaduto, *op. cit.* p. 184.

[2] Dizionario Ricciano, p. 197 (By the Marchese del Guasto, Sora, 1793).

[3] Lettera Pastorale di Mgr. Francesco Falchi, Vescovo di Pistoia e Prato, Firenze, 1792.

[4] Pii PP. VI. Bull. *Auctorem fidei*, Prop. xxxv.

This papal manifesto called forth much debate, and was not accepted without considerable opposition, arising chiefly from its assertion of the superiority of the Church over the state. In Spain, even Carlos IV., bigoted as he was, did not grant it the *placito regio* and order its publication until 1800, and then only because his favorite Godoy had been won over. Pius VI. was so rejoiced that he commended Godoy as a pillar of the faith.—Muriel, Historia de Carlos IV. T. VI. p. 119.

It was not long after this that Salvatori wrote his instructions for young confessors. For thirty years he had been an earnest laborer in the confessional, seeking the salvation of souls in the hospitals and prisons among the most hardened of sinners, who perhaps had never confessed before and were now atoning for the misdeeds of a life-time. Yet he advises the lightest of penance. To give an uncultured penitent Rosaries to repeat or the *Via Crucis*, or the *Scala Santa*, is as much as to say "I give it to you to be not performed." Only what is cheerfully accepted is to be imposed—three Hail Marys for the purity of the Virgin, a Pater and a Hail Mary for the guardian angel, the same for the name-saint and five for the five wounds of Christ, with certain meditations. In very grave cases these may be continued for some weeks or even months.[1]

When the administration of penance is thus reduced to a simple formality, it is difficult to appreciate the perplexities to which conscientious confessors assume to be exposed. Father Mach tells us that excessive laxity and excessive rigor are the rocks on which an infinite number of priests and penitents are lost. Those who are too indulgent think that they *salvant damnandum*, while in reality they *damnant salvandum;* they attract around them a crowd of usurers, loose livers, and reprobates, and acquire the reputation of wise and good confessors. On the other hand, excessive rigor casts into hell those who are on the brink of the abyss. It is part of the same trouble which we have seen as to the alternatives of laxity and rigor in the requirements for absolution, but in this case Father Mach's excessive rigor consists in requiring a bashful boy to ask pardon of his parents, in prescribing monthly confession, in imposing on a laborer part of a Rosary daily for several months, in allowing only four ounces of food on a fast day, in enforcing the canons prohibiting conjugal intercourse at certain times etc. In this dilemma he proposes a modification of the suggestion of Benedict XIV. (p. 187), by the imposition of two penances, one light but obligatory, the other heavier, as a voluntary work of devotion, the omission of

[1] Salvatori, Istruzione per i novelli Confessori, P. II. § 3. The *Via Crucis*, as we shall see hereafter, is simply a visit to a church where there are representations of the various stages of the Passion. At each station the penitent pauses to meditate and breathe a prayer. The *Scala Santa* is the ascent on the knees of the Holy Stairs in St. Peter's, with a prayer at each step. For these pious works indulgences are given.

which will not be a fresh sin. Thus a penitent burdened with adulteries, thefts, sacrilege and other grave offences may be required, to recite three parts of the Rosary or to perform the *Via Crucis* several times, while longer and more salutary acts of devotion may be suggested by way of counsel.[1] In the same spirit recent writers, after gravely asserting that the confessor sits as a judge to apportion the satisfaction to the sins as prescribed by the council of Trent, assure us that to hear a mass or recite a third of a Rosary, or to meditate for twenty minutes is a heavy penance, and that it may be lightened during the time of a Jubilee indulgence.[2]

A still more authoritative classification of modern penance is given by the papal Penitentiaries whose office it is to deal with the grave offences reserved to the Holy See. According to this, *pœnitentiæ graves* are fasting, the discipline, pilgrimage to some church, recitation kneeling of the penitential psalms or parts of the Rosary, or monthly confession. *Pœnitentia longa* is when it is to be performed once a week for a year. *Pœnitentia gravis et diuturna* is prolonged for three years. *Pœnitentia gravissima* is a fast once or thrice a week on bread and water or wine, or any of the *pœnitentiæ graves* ordered more than once a week. *Pœnitentia perpetua* is to be continued through life. *Pœnitentia quotidiana* is generally prescribed in commutation of a vow of chastity or religion; it should be easy —a brief prayer, spiritual reading, examination of the conscience or some simple work of mercy. This last provision for so serious a matter as the annullation of a vow of religion or chastity, shows how slender is the satisfaction currently imposed, especially as we are told that several light penances can be substituted for a heavier one, and that it suffices to indicate to the penitent what the penance ought to be and allow him to supply deficiencies of his own free will.[3] It need not, therefore, surprise us to learn that in ordinary

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[1] José Mach, Tesoro del Sacerdote, pp. 247, 250–1, 259 (Torino, 1876).

[2] Bonal Instit. Theol. T. IV. n. 277 (Ed. XIV. Tolosæ, 1882).—Marc Institt. Moral. Alphonsianæ n. 1716 (Ed. VII. Romæ, 1893).

[3] Manuale Facultatum Minorum Pœnitentiariorum Apostol. pp. 13–14 (Romæ, 1879).

In 1688, before laxity had reached its present height, we are told that when the Penitentiary orders for a murderer a heavy and prolonged penance, it suffices to prescribe fasting two days in the week, weekly recitals of the penitential psalms on the knees, and other similar observances to be continued at

practice penance is the merest nominal formality. Father Joseph Faà di Bruno tells us "The priest will give you some advice, enjoin a penance, usually some prayers to be said by you, and if he finds you properly disposed give you in God's name absolution of your sins, while you make an act of sincere contrition. . . . You will now leave the confessional and kneeling in some other part of the church . . . if time allows, you will then perform the penance enjoined on you by the priest."[1] The penance thus quickly dispatched consists, as I am informed, usually of three or four Hail Marys; external acts are dropped altogether and the recitation of the seven penitential psalms would imply some grievous offence requiring unusual satisfaction. It is a cardinal rule that no penance likely to give rise to suspicion is to be imposed.[2]

Such being the current practice of the Church, we may readily believe Frassinetti when he says that any parish priest who inclines to the more rigorous theories will speedily find his confessional deserted, and that in fact such theories are only held by students and recluses who have no experience.[3] Yet in the face of all this the theologians continue gravely to emphasize the indispensable importance of satisfaction and the necessity of detailing all the circumstances of sin in order that the confessor may accurately apportion the punishment to the offence.[4] Possibly this may be self-deceptive, and yet, serious as the subject is, one can scarce resist a sense of the grotesque suggested by these solemn and labored disquisitions leading to an outcome so trivial, especially in view of the fact that when penitents are numerous the confessor, however well intentioned, must needs fall into a perfunctory routine. It is true that on the one hand indulgences, in modern times, are relied upon to make good all deficiencies, and on

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least for a year.—Navar Manuductio ad Praxim Executionis Litterar. S. Pœnitentiar. p. 129 (Romæ, 1688).

[1] Jos. Faà di Bruno, Catholic Belief, pp. 310–11 (New York, 1884).

[2] Manuale Facultatum, etc., p. 14.

[3] Frassinetti, The New Parish Priest's Practical Manual, p. 355. Few priests there are, he adds (p. 356), who do not habitually select as their text-book Liguori's Moral Theology or the works of his commentators, Scavini, Gury, Gousset, etc.

[4] Azpilcuetæ Manual. Confessar. cap. xxvi. n. 16–17.—Reginaldi Praxis Fori Pœnit. Lib. VII. no. 45–8.—Salvatori, Istruzione per i novelli Confessori, P. II. § iv.—Gröne, der Ablass seine Geschichte und Bedeutung, pp. 36–40, 45–8 (Regensburg, 1863).—Palmieri Tractatus de Pœnit. pp. 426, 428, 436–8.

the other that conscientious confessors place their hope of improving their penitents rather on the moral instruction which the confessional enables them to give impressively, than on the penance, whether vindictive or medicinal, which they can impose. Doubtless in this manner a zealous and kindly priest, who is not hurried by a crowd of penitents, can accomplish much good, yet even this can scarce outweigh the unfortunate impression that sin can be redeemed by the sacrament and a few brief prayers.

In this virtual abandonment of satisfaction modern theologians apparently do not realize that it involves the virtual abandonment of the divine origin of confession which is solely based upon the necessity of a judge knowing all the details of a case before he can render judgment, or that it reduces the sacrament of penitence at the most into a device for producing an impression upon the sinner's emotional nature, giving him good counsel and exhorting him to repentance and amendment. The practical elimination of satisfaction resolves all the rest of the sacrament into an artificial environment to produce a factitious effect and is an admission that the penitential system, after some thirteen hundred years of trial must be practically abandoned. When penitents have to be enticed to the confessional by a minimum of penance, even the pretence of contrition vanishes, for contrition postulates an earnest desire to placate God at any necessary sacrifice.[1]

So revolutionary a change of discipline in the exercise of the most important function of the Church could not occur without eliciting some apology and attempt at explanation. During the middle ages and even into modern times a common excuse for it has been the assertion that the increasing fragility of man and the refrigescence of charity have rendered it impossible to impose on the repentant sinner the burdens which were cheerfully endured by the robuster virtue of earlier times,[2] and those who argued thus were apparently blind to

[1] Sed qui hic non vult satisfacere pro mortali non videtur esse in statu salutis. —S. Antonini Summæ P. III. Tit. xvii. cap. 18.

[2] Alani de Insulis Lib. Pœnit. (Migne, CCX. 293, 294).—P. Pictaviens. (Morin. de Pœnit. Lib. x. cap. 25).—Guillel. Paris. de Sacr. Pœnit. cap. 21.—Concil. Claromont. ann. 1268, cap. 7 (Harduin. VII. 596).—Weigel Claviculæ Indulgent. cap. 19.—Summa Angelica s. v. *Confessio* VI.—Mich. Medina Disputat. de Indulgentiis cap. xlii.—Marchant. Trib. Animar. Tom. I. Tract. IV.

the implied admission that under the constantly developing theocracy of the Church her children were constantly deteriorating. Father La Croix indignantly repudiates this reasoning as an invention of the Rigorists and proceeds to enumerate what he regards as the causes. The heretics he considers partly to blame, because to avert their attacks the Church fears to render confession odious by heavy penances; then the rise of the Mendicant Orders and Jesuits created a class of confessors who learned to cure sin by more benignant methods, and these came to be recognized as more useful, because thereby the faithful were allured to the sacraments; moreover the Holy War against the infidel brought in the use of indulgences, which are a more certain mode of satisfying God, and besides, the increase of the religious Orders afforded a most efficient refuge for penitents.[1] Dr. Amort knew a little more of history than the ordinary theologian and went further back in his search for causes. The early Christians, he says, lived in a Gentile community, and though it bore hardly on the sinner it was good policy for them to win the respect of the heathen by the severity visited upon all offences. Then, as the Barbarians were converted who were prone to vice, similar rigor was required; besides, there were many crimes not punished by the secular laws, and the Church had to repress them. Now, however, these offences are justiciable in the courts, the people at large are more virtuous and are surrounded with aids to virtue in the shape of priests, monks, friars, confraternities, religious observances, feasts, pilgrimages, etc., and consequently much less severity is needed.[2] Father Reuter explains that it was to prevent the heretics from traducing the confessional as a butchery of souls, to attract the faithful to confession and thus secure the preservative influence of the sacrament, and finally in consequence of the increased use of indulgences.[3] The learned Binterim contents himself with stating facts; in the obsolescence of the Penitentials penance became

Q. iv. Cóncl. 3.—Clericati de Pœnit. Decis. XXXIV. n. 8.—Bened. PP. XIV. De Synodo Diœcesan. Lib. XI. Cap. xi. n. 4.

Cardinal Gousset virtually says the same—"The weaker the faith has become among us, the more necessary it is to deal mildly with sinners who return to God."—Hutch's Translation of Frassinetti's Manual, p. 356.

[1] La Croix Theol. Moral. Lib. VI. P. ii. n. 1255.

[2] Amort de Indulgentiis I. 12.

[3] Reuter Neoconfessarius instructus n. 18.

arbitrary and diminished in rigor; the doctors argued that the ancient severity was unendurable by modern tepidity; theologians proved that discretional penances sufficed, that only public sins required public penance, and in time this too fell into desuetude; the gate was opened to laxity, every man followed his own practice without regard to the precepts of the Fathers or the rules of the Church, and this lasted until the council of Trent established wholesome regulations—about the non-observance of which he preserves discreet silence.[1] A more recent authority is satisfied with attributing it to the influence of the Holy Ghost and the use of indulgences.[2]

One current excuse offered for trivial penance is the sacramental value conferred, by the final clause of the absolution formula, on the tribulations endured and good works performed by the penitent (I. p. 491). We have seen (I. p. 4) the early belief in the expiatory character of suffering. This was not lost sight of by the schoolmen in framing their system; misfortunes are punishments inflicted by God, and may satisfy for sin if borne with patience and charity—a doctrine which the council of Trent has rendered *de fide*.[3] As soon

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[1] Binterim, Denkwürdigkeiten, V. III. 271-2.

[2] Guillois, History of Confession, pp. 133-4 (New York, 1889)—"The discipline of the Church concerning penance is nowadays very different from what it was in the early ages. Does sin offer God a less outrage, or does divine justice relax its claims to take revenge? Undoubtedly not, but the Church, guided by the Holy Ghost, has thought it advisable to use less severity towards her children, fearing lest she might induce them to lose courage; moreover, in opening to them the treasure of indulgences she offers to them a supplement to the shortness of their penance and means to satisfy the justice of Almighty God."

[3] Astesani Summæ Lib. v. Tit. xxiv. Q. 2.—Summa Sylvestrina s. v. *Satisfactio* § 9.—C. Trident. Sess. XIV. De Pœnit. cap. 9.—Müller's Catholic Priesthood, IV. 212.—But to enjoy this expiatory advantage penitents must at least have the virtual intention of offering their tribulations in satisfaction (Gab. Biel in IV. Sentt. Dist. XVI. Q. ii. Art. 3, Dub. 7.—Clericati De Pœnit. Decis. VII. n. 4, VIII. n. 1), and confessors are advised to enjoin on those suffering under poverty, disease or disgrace that two or three times a day for a week or two they offer these evils as a satisfaction to God, protesting that they will endure them patiently in retribution for their sins (Gobat Alphab. Confessar. n. 750).

In modern times faith in this doctrine seems to be somewhat shaken. Palmieri explains (Tract. de Pœnit. pp. 418-19) that the evils of life are not always sent in punishment of sin. Some of them are natural and ordinary, some extraordinary, like the Deluge, the burning of Sodom etc., which are punish-

a the absolution formula took its modern shape the theologians discovered that it had a special value in converting the evils of life into sacramental penance.[1] To this fortunate discovery some authorities attribute the diminution of penitential inflictions, as the words of the priest thus render the penitent's whole life a satisfaction and supply all defects.[2] When they are used the confessor is therefore justified in imposing a penance that would be otherwise inadequate, though in this the doctors are not unanimous.[3]

The development of the use of indulgences has also been commonly adduced in explanation of the diminution of penance, to which, indeed, it has in some degree perhaps contributed by reconciling both confessor and penitent to the inadequacy of the customary satisfaction, for it is assumed in practice, as a matter of course, that the penitent will not rely on the sufficiency of what is enjoined on him in the sacrament, but will supplement it by some of the indulgences which are now so liberally granted for observances easily performed.[4] Yet in fact this is an inadequate explanation. The original form of the indulgence, as we shall see hereafter, was merely a commutation of a part or the whole of the enjoined penance, which was presumed to be imposed according to the canons, and therefore to be adequate satisfaction. As penance decreased and became manifestly insufficient the

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ments. Of such are war, famine, pestilence, social disturbances, and in these the righteous are involved with the wicked, and God will often not be mollified with their prayers. On this are based processions, feasts etc. in times of calamity, and sometimes God accepts this satisfaction, and sometimes not.

[1] Hostiens. Aureæ Summæ Lib. v. De Pœnit. et Remiss. n. 51.—Astesani Summæ Lib. v. Tit. xxxi. Q. 2.—Summa Tabiena s. v. *Absolutio* I. n. 4.—Bart. a Medina Instruct. Confessarior. Lib. II. cap. 11, Reg. ult.

As in almost everything else, there are dissenters who hold that this clause is merely deprecatory. See La Croix Theol. Moral. Lib. VI. P. ii. n. 1229, 1250.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 507.

[2] Azpilcuetæ De Pœnit. Dist. v. cap. *Falsas* n. 15; Dist. VI. cap. 1 *In Princip.* n 37.—Reginaldi Praxis Fori Pœnit. Lib. VII. n. 26.

[3] Gobat Alphab. Confessar. n. 755-6.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1259.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 507.—Varceno Comp. Theol. Moral. Tract. XVIII. cap. 5. art. 2.

Reuter (Neoconfessarius instructus n. 22) considers the negative opinion more probable.

[4] Ma per togliere ogni scrupulo si a' penitenti come a' confessori circa il dare o ricevere penitenze più ò meno leggiere basta l'uso delle indulgenze.—S. Leonardo da Porto Maurizio, Discorso Mistico e Morale § XXIX.

indulgence grew to be reckoned as covering not only the enjoined penance but all that should have been imposed. In either case the increasing facility with which indulgences were obtainable would rather favor the retention of the canonical penances, because they could thus be so easily discharged, except among the rigorist school, which taught that indulgences do not release from the performance of penance. It is therefore rather as an apology than as a logical process of reasoning that we must regard the frequent remark of the moralists that light penances are justified by the penitent obtaining an indulgence, especially at the time of a Jubilee, while sometimes it is recommended or even enjoined to be gained in order to compensate for the inadequacy of the penance prescribed.[1] Bartolomé de Medina had a more correct conception when he says that the confessor should require the penitent to gain a Cruzada or Jubilee indulgence in order to provide against defects or forgetfulness in the performance of his penance.[2]

When we turn from the theological apologies to inquire into the real causes of this complete change in the discipline of the Church, it is not difficult to explain by the concurrent and cumulative action of various factors. When the Lateran canon of 1216 rendered annual confession obligatory on all Christians, it became indispensable that the enforced penitents should be treated very differently from the voluntary ones who of old appealed for relief from the burden of their sins, or the public offenders who were condemned to expiate their crimes. An attempt to enforce the penitential canons would have led to a rebellion; the Lateran rule was difficult enough to carry into effect, and the people had to be allured to its recognition by a mitigation of the ancient rigor. The confessor, moreover, by this time was clothed with arbitrary power to modify at his discretion the prescriptions of the penitentials, and in administering the new order of things he consulted his own ease and cultivated the liberality of his parishioners by laxity.

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[1] Henriquez Summæ Theol. Moral. Lib. v. cap. xxii. n. 5.—Tamburini Method. Confessionis Lib. VI. cap. 1, n. 12.—Gobat. Alphab. Confessar. n. 762–3.—Clericati de Pœnit. Decis. III. n. 11–15.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1225–1229.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 519.—Reuter Neoconfessarius instructus n. 17.—Gröne, Der Ablass, p. 48.

[2] Bart. a Medina Instruct. Confessar. Lib. II. cap. xi. Reg. 7.

Moreover, as the distinction between the *forum externum* and *internum* became more clearly recognized it was evident that the essence of penance as satisfaction lay in its being voluntary and cheerfully accepted. This had already been occasionally admitted,[1] but now it grew to be an axiom among the schoolmen that it could never be imposed on the unwilling, and even that no promises of its performance could be exacted[2]—a rule which is still taught, with some exceptions that will be considered hereafter.[3] In fact, the theologians find in the voluntary character of penance the explanation why such trifling observances release from the unutterable pains of purgatory.[4] It is true that this free-will on the part of the penitent is rendered somewhat illusory by the power of the priest to refuse absolution, which leads to a good many intricate questions involving some differences of opinion among the doctors. As the priest, however, was taught (pp. 183, 185) never to allow a penitent to leave the confessional in despair, the natural result was to lead to a consultation between the two as to what should be imposed and accepted, inevitably resulting in a constantly progressive diminution of the amount. In its zeal to introduce confession as a custom and then to facilitate obedience to the Lateran canon, the Church accepted the necessity of this consultation, subversive as it was of the dignity of the sacrament and of the judicial position claimed for the priest. With a few exceptions among later authorities, this consultation is prescribed and the confessor is directed to impose no penance save such as the penitent signifies his willingness to accept.[5]

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[1] Cnuti Legg. Eccles. Tit. xxiii.—Post Concil. Lateran. P. xxxv. cap. 2; P. L. cap. 10.—Alani de Insulis Lib. Pœnit. (Migne, CCX. pp. 289–90).

[2] S. Bonavent. in IV. Sentt. Dist. xv. P. ii. Art. 2, Q. 4.—J. Scoti in IV. Sentt. Dist. xv. Q. 1.—Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 135, 136.—Astesani Summæ Lib. v. Tit. xxxi. Q. 2.—Summa Angelica s. v. *Confessio* VI. § 1.—Bart. de Chaimis Interrog. fol. 105*a*.—Godschalci Rosemondi Confessionale fol. 113–14.

[3] Clericati de Pœnit. Decis. IV. n. 1.—Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* III. n. 11.—Palmieri Tract. de Pœnit. p. 427.

[4] Martini de Frias de Arte et Modo audiendi Confess. fol. xii*a*.

[5] Alani de Insulis Lib. Pœnit. (Migne, CCX. 294–5.—Rob. de Flammesburg Lib. Pœnitent. (Morin. de Pœnit. Lib. x. cap. 25).—S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.—Synod. Nemausens. ann. 1284 (Harduin. VII. 910–11).—Astesani Summæ Lib. v. Tit. xxxi. Q. 2.—S. Antonini Summa Confessionum fol. 10*b*, 69*b*.—John Myrc's Instructions to Parish Priests, v. 1633–6.—Summa

This discretion allowed to the penitent led to a further source of reduction of penance. When the sacramental theory was fairly established that contrition or attrition with the sacrament remits the *culpa*, leaving only the *pœna*, or temporal pains of purgatory, to be removed by the satisfaction imposed, the penitent claimed that he might make his election between enduring the penance and taking his chances in purgatory. This claim was generally admitted by the schoolmen and is even accepted by some post-Tridentine moralists of high authority.[1] Alexander Hales seems to be the only medieval theologian to deny it, for the somewhat irrelevant reason that no man can be a judge in his own cause.[2] Among the moderns, however, it finds little favor, and it may be considered for the present at least as obsolete;[3] in fact, with the trivial penances in

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Sylvestrina s. v. *Confessor* IV. § 2.—C. Senonens. ann. 1524 (Bochelli Decr. Eccles. Gallic. Lib. II. Tit. vii. cap. 112).—S. Francesco di Sales, Avvisi ai Confessori, n. viii.—Amort de Indulgentiis II. 233.—Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* Art. III. n. 11–15.—S. Alph. de Ligorio Praxis Confessor. n. 8, 11, 12.

On the other hand, Gobat says (Alphab. Confessor. n. 764) that the opinion is improbable and is unknown in Germany that the penitent can accept or reject the penance. The severe virtue of Juenin naturally construes the Tridentine decree to mean that the penitent must accept whatever penance is enjoined under pain of loss of absolution, and that the contrary opinion is a novel innovation (De Sacramentis Diss. VI. Q. vi. cap. 6, Art. 2).

[1] Rob. de Flammesburg (*ubi sup.*).—Jo. Scoti in IV. Sentt. Dist. XIX. Q. 1. —Guillel. Vorrillong in IV. Sentt. Dist. XVII.—Summa Angelica s. v. *Confessio* § 36.—Summa Sylvestrina s. v. *Confessio. Sacram.* I. § 29.—Aurea Armilla s. v. *Confessio* n. 29.—Azpilcuetæ Man. Confessar. cap. xxvi. n. 20, 23.—Reginaldi Praxis Fori Pœnit. Lib. VII. n. 15.—Polacci Comment. in Bull. Urbani PP. VIII., pp. 406–7 (Romæ, 1625).

Azpilcueta, however, elsewhere (Comment. de Pœnit. Dist. V. cap. Consid. § *Ponat se* n. 6) says that in such case the priest can refuse absolution, when the penitent can seek a more tractable confessor.

[2] Alex. de Ales Summæ P. IV. Q. XVIII.. Membr. ii. Art. 1.

[3] Juenin de Sacramentis Diss. VI. Q. vi. cap. 6, Art. 2.—Clericati de Pœnit. Decis. II. n. 9; Decis. XXX. n. 1–6.—Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* Art. III. n. 11–15.—Bened. PP. XIV. Encyc. *Inter præteritas* § 65, 3 Dec. 1749.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 515–16.—Palmieri Tract. de Pœnit. p. 438.

There seems to have been an effort to deter penitents from electing purgatory by various stories to illustrate the sharpness of the purgatorial suffering. St. Antonino (Summæ P. IV. Tit. xiv. cap. 10, § 4) relates, from the *Liber de Septem Donis*, that a man, worn out by long and painful illness, prayed for

vogue, it may be regarded as a question of purely speculative interest. Connected closely with this is the question whether the penitent who refuses to accept any penance is to be absolved. We have seen above (pp. 182, 189) that this was answered affirmatively by the schoolmen, and even in the latter half of the sixteenth century Azpilcueta states that it is the universal custom in Rome and throughout the world never to refuse absolution because the penitent declines to accept penance.[1] Practically this is accepted by modern theologians who say that to preserve the integrity of the sacrament the priest must impose something, however trivial, even if only beating of the breast or calling upon Jesus, and it is not to be supposed that the penitent will absolutely refuse to do anything, but on the speculative question as to absolution in such case opinions are divided, with the weight of authority inclining in the negative.[2] It is easy thus to understand how Liguori on his death-bed was able to boast that "I do not remember that I ever sent away a sinner without absolution," and how Salvatori can assert that a priest who drives away a penitent as unfit for absolution is an assassin of souls.[3]

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death, when an angel appeared to him and offered that he should die and pass three days in purgatory or endure his disease for two years more and then ascend direct to heaven. He chose the former, died, and his soul went to purgatory, where the angel came and reminded him of the bargain. He complained bitterly of deceit, saying that he had been promised only three days, while already he had been subjected to years of fearful agony. The angel told him that only an hour had passed, when he begged to be restored to life. The request was granted, and he patiently endured the two years of sickness. Gregory the Great was wiser, for when he prayed for the soul of Trajan, an angel reproved him for praying for one of the damned and offered him the alternative of two days in purgatory or to pass the rest of his life in painful disease. He chose the latter and patiently endured the torments of fevers, gout and colics which pursued him till death.—Rob. Episc. Aquinat. Opus Quadrigesimale Serm. XLVIII. cap. 2.

[1] Azpilcuetæ Manuale Confessar. cap. xxvi. n. 20.

[2] Reginaldi Praxis Fori Pœnit. Lib. VII. n. 12, 20.—Escobar Theol. Moral. Tract. VII. Exam. iv. n. 34, 40.—Gobat. Alphab. Confessar. n. 742.—Clericati de Pœnit. Decis. XXXIV. n. 7.—Viva Cursus Theol. Moral. P. VI. Q. vi. Art. 2, n. 1.—Tamburini Method. Confess. Lib. IV. cap. ii. § 1, n. 7.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1238.—Varceno Comp. Theol. Moral. Tract. XVIII. cap. 5, Art. 3.

[3] Müller's Catholic Priesthood, III. 176.—Salvatori, Istruzione per i novelli Confessori, P. II. § 1.

Another source of diminished penance is to be found in the competition between the secular priests and the Mendicant Orders and Jesuits, with the inevitable result of the effort on both sides to attract penitents to their respective confessionals. There was not only the personal influence at stake, but the fees or "alms" and the opportunity of securing compositions and legacies from the dying rendered the hearing of confessions a profitable duty well worth contending for, and each side accused the other of undue laxity—of what in worldly phrase might be termed an underselling of redemption.[1] Competition of this kind could not fail to stimulate the tendency to diminish the penance customarily imposed.

The constantly increasing strictness with which the obligation of the seal of confession was construed served as another contributory cause or excuse for laxity. It is evident that the long years of penance prescribed in the Penitentials, the pilgrimages and other public observances, the donation of broad lands in remission of sins which openly proclaimed the lapses and repentance of the sinner, were out of place when the old spontaneous seeking of pardon was converted into enforced confession required of every one. To render the new rule acceptable and induce its observance the penitent had to be guaranteed inviolable secrecy and protection from suspicion. We have seen that it became established that public penance should not be prescribed for secret sins, and this naturally developed into the rule that no satisfaction should be imposed that would in any way subject the penitent to suspicion or scandal.[2] As voluntary mortification gradually declined, the penitential resources at the command of the confessor thus became more and more restricted, especially as the secrecy of the confessional extended to the penitent, and he was required not to allow the penance imposed on him to be known.[3] Post-Tridentine doctors therefore tell us that the discipline is excluded; prolonged devotional exercises might betray; as fasting on bread and water is no longer voluntarily assumed, the injunction of such a penance on a wife would lead to detection by her husband. Azpilcueta admits that penitents can be required, immediately after confession, to salute the Virgin or to recite a psalm on

[1] Alex. PP. VIII. Decr. 7 Dec. 1690, Prop. 21, 22; cf. Viva Theol. Trutina *in loc.*—La Croix Theol. Moral. Lib. VI. P. ii. n. 1263.

[2] Jo. Gersonis Reg. Morales (Ed. 1488, XXV. G.).

[3] Rob. Episc. Aquinat. Opus Quadragesimale Serm. XXIX. cap. 2.

bended knees in the church, because such observances do not excite suspicion; he denounces as unlawful, though he has witnessed it, the penance of standing bareheaded and barefooted with a candle during mass. He adds that it is a foolish and miserable error to impose, as penance for working on a feast-day, the asking of public pardon on another feast; still more foolish, when the offence has been secret, and most foolish of all to enjoin fasting, after Easter, on men and even on women, for lapses of the flesh.[1] Lochon declares that it is better to leave the sinner to the mercy of God in this world and the next than to expose a girl to the suspicion of her mother or a wife to that of her husband[2]—a humane and charitable conclusion, but one which effectually disposes of the whole theory of satisfaction. That this scrupulous protection of the sinner from suspicion is authoritative is manifested by a decree of the Inquisition, May 6, 1761, directing the superiors of the Capuchins, when a penitent is sent to them with a reserved case, to be careful that the penance be such as not to betray the confession, even by inference and conjecture.[3]

More than all this, however, was the change effected by the perfected theory of the sacraments, especially when the discovery, about the middle of the thirteenth century, of the treasure of salvation lodged with the Church for distribution, enabled it to give to every sinner the *quid pro quo* wherewith to satisfy for his sins. In the old penance the theory was that the sinner must undergo an infliction in some sort equivalent to his offences. In the new penance the whole conception is changed. Even as servile attrition suffices in the sacrament, *ex opere operato*, to replace the contrition formerly required, so, through the sacramental power of the keys, the Passion of Christ is offered by the sinner and the trivial works performed by him become an equivalent to satisfy God for the infinite evil of his mortal sins and disobedience.[4] As Guido de Monteroquer says, a single Pater-

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[1] Azpilcuetæ Comment. de Pœnit. Dist. v. cap. *Sacerdos*, n. 103-7.—Henriquez Summæ Theol. Moral. Lib. VI. cap. xxi. n. 6.—Reginaldi Praxis Fori Pœnit. Lib. VII. n. 32.

[2] Lochon, Traité du Secret de la Confession, p. 84 (Brusselle, 1708).

[3] Bernardi a Bononia Man. Confessar. Ord. Capuccin. cap. VI. § 1.

[4] Jo. Scoti in IV. Sentt. Dist. xv. Q. 1.—Astesani Summæ Lib. v. Tit. xix. Q. 2.—Saulius in Savonarolæ Confessionale fol. 83*a*.—Busenbaum Medullæ Theol. Moral Lib. VI. Tract. iv. Cap. 1, Dub. 4, Art. 1.—Viva Cursus Theol.

noster imposed by the priest is more efficacious than a hundred thousand recited spontaneously, for the one has its merit from the Passion, the other only from the merit of the individual.[1] Thus the slenderest observances acquire a sacramental value rendering them satisfactorily efficient, and, in the mercantile language so much affected by the moralists, the faithful can discharge with a dollar in this world the debt of a hundred due in the next.[2]

In spite of all this the question of the sufficiency of the satisfaction imposed in the confessional has been the subject of endless discussion, and as it is one of which, in the nature of things, none of the debaters know anything, their debates are necessarily somewhat vague and unfruitful. Before the sacramental theory was perfected, Peter Lombard infers a distinction between the satisfaction due to the Church and that due to God. The contrition of the sinner may in itself satisfy for both *culpa* and *pœna;* if it does not, and the priest imposes an insufficient penance, God adds what punishment is requisite; but, as no one can know the interior of another, the Church has wisely provided certain terms of penance through which the sinner satisfies the Church, inside of which alone can sins be remitted.[3] Thus a double duty was imposed on the penitent; the Church could only prescribe its terms for reconciliation, and left him to settle his accounts with God. When the sacramental theory had been fairly worked out, Aquinas argues that the priest in bestowing absolution must remit part of the purgatorial pains, for otherwise he would be doing nothing, and that the inspiration of God must direct him as to the imposition of satisfaction sufficient to discharge the rest, but insufficiency does not affect the validity of absolution as any deficiency will be made up in purgatory.[4] With that intimate knowledge

Moral. P. VI. Q. 1, Art. 1, n. 6.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1237. —Th. ex Charmes Theol. Univ. Diss. V. cap. iv. Q. 2, Concl. 1.—Palmieri Tract. de Pœnit. pp. 422, 439.

[1] Manip. Curatorum P. II. Tract. iii. Cap. 10.—"Unde credo quod unum Paternoster impositum in pœnitentia a sacerdote efficacius est ad satisfaciendum pro peccatis quam si aliquis dicerit centum millia per semetipsum, quia illud habet meritum a passione Christi, illa vero merito dicentis."

[2] Salvatori, Istruzione per i novelli Confessori, P. I. § xxvii.

[3] P. Lombard. Sentt. Lib. IV. Dist. XX. n. 3.

[4] S. Th. Aquin. in IV. Sentt. Dist. XX. Q. ii. ad 2; Summæ Suppl. Q. XVIII. Artt. 3, 4.

of the ways of God possessed by the schoolmen, Duns Scotus declares that if the priest happens to hit anywhere near the mark, God accepts it, but if he falls much too low God regards it as unreasonable and only remits a proportionate part of the *pœna*.[1] John of Freiburg admits that the amount of penance imposed by the priest has no necessary relation to that due by the sinner; if all that is due were imposed it would be discouraging, so it is better to prescribe too little and trust to its being supplemented in purgatory.[2] In fact it was generally admitted that it is impossible for the priest to know what penance should be imposed, and the unanimous resource of the doctors was the inevitable one that if it was too small God could be trusted to make it up in purgatory, nor does it seem to have occurred to them how fatal to the claims of divine origin for the system was this admission of its inevitable imperfection and inadequacy.[3] As Thomas of Walden naïvely remarks, as the amount is known only to God, man cannot estimate it, and if there were no hope in the keys so long as penance is not certain, the keys would be only a source of despair, while Dr. Weigel phrases the dilemma differently when he asks what is the function of the priest when God pardons the *culpa* for contrition and does not ratify the decision of the confessor as to the *pœna*.[4] Baptista Tornamala is troubled by no such doubts, and asserts that if the priest intends to give full penance and gives too little, still it suffices, provided the penitent believes him to be sufficiently learned, but in a sinner who intentionally seeks an ignorant confessor such satisfaction is incomplete.[5] Caietano and Prierias recur to Aquinas's doctrine of inspiration.[6]

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[1] Weigel Clavic. Indulgent. Cap. 6.—Gab. Biel in IV. Sentt. Dist. XVIII. Q. 1, Art. 1, Concl. 2.

[2] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 129.

[3] P. Pictaviens. Sentt. Lib. III. Cap. 16.—S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.—Alex. de Ales Summæ P. IV. Q. XXI. Membr. iii. Art. 1.—S. Bonavent. Confessionale, Cap. IV. Partic. 3.—Jo. Scoti in IV. Sentt. Dist. XV. Q. 1.—Astesani Summæ Lib. v. Tit. vi. Q. 1; Tit. xxxi. Q. 2.—Durand de S. Porciano in IV. Sentt. Dist. XX. Q. 1, § 5.—Pœnit. Civitatens. cap. 150 (Wasserschleben, p. 705).—P. de Palude in IV. Sentt. Dist. XX. Q. ii. ad 3.—Jo. Gersonis Regulæ Morales (Ed. 1488, XXV. G).—S. Antonini Summæ P. III. Tit. xvii. Cap. 20.—Rob. Episc. Aquinat. Opus Quadragesimale Serm. XLVIII.

[4] Th. Waldens. de Sacramentis Cap. CL. n. 1; Cap. CLVII. n. 3.—Weigel Claviculæ Indulgent. Cap. 6.

[5] Summa Rosella s. v. *Indulgentia* § 29.

[6] Caietani Opusc. Tract. XVIII. De Confessione, Q. 5.—Summa Sylvestrina s. v. *Claves*, n. 6.

The post-Tridentine doctors pay less attention to the subject, as it is divested of much of its importance by the modern theories as to indulgences, the facilities of obtaining them and their universal use. As a rule they adhere to the old belief in the deficiency being made up in purgatory,[1] and Renaud argues that those who deny it are misled by authorities which relate to restitution, avoiding occasions of sin, etc., while he further points out an inevitable source of uncertainty in the fact that the priest cannot tell what portion of the merits of Christ are applied to the pardon of the sin.[2] Henriquez, like Duns Scotus, considers it probable that, if the confessor guesses with tolerable accuracy, God is satisfied and asks nothing more.[3] La Croix admits that the result is uncertain, for the judgment of the priest does not control that of God, and in this satisfaction differs from indulgences, because in them the pope offers an undoubted equivalent from the treasure of the Church.[4] Habert claims that God grants a special grace to those whom he calls to the cure of souls, but he weakens this by adding that the requisite experience is gained by practice.[5] Ferraris quotes authorities on either side of the question of sufficiency, but concludes that the more probable opinion is that satisfaction does not relieve entirely from the pains of purgatory, for otherwise indulgences and other good works would be neglected.[6] It is therefore recommended by Willem van Est that when the penitent recognizes the insufficiency of the penance imposed he should supplement it of his own accord, for every man is bound to judge for himself.[7] Of course such self-imposed austerities would be destitute of sacramental value, and it is not to be supposed that the advice is frequently followed, except as to obtaining indulgences,

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[1] Azpilcuctæ Comment. de Pœnit. Dist. v. Cap. *Consid.* § *Ponat se* n. 5.—Reginaldi Praxis Fori Pœnit. Lib. I. n. 15.—Viva Cursus Theol. Moral. P. VI. Q. vi. Art. 1, n. 1.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 509.—Reuter Neoconfessarius instructus n. 17.—Varceno Comp. Theol. Moral. Tract. XVIII. cap. 5, Art. 1.

[2] Reginaldi Praxis Fori Pœnit. Lib. I. n. 17; Lib. VII. n. 49.

[3] Henriquez Summæ Theol. Moral. Lib. VI. cap. xxii. n. 10.

[4] La Croix Theol. Moral. Lib. VI. P. ii. n. 1237.

[5] Habert Praxis Sacr. Pœnit. Tract v. Reg. 3.

[6] Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* Art. III. n. 3, 4.

[7] Estii in IV. Sentt. Dist. XXV. § 21.—Father Müller (Catholic Priesthood, IV. 208–9), in admitting the complete insufficiency of modern penance, gives excellent advice as to supplementing it with works of charity and self-restraint.

which the confessor is sometimes recommended to urge and even to impose.[1] This, I believe, is the ordinary custom with penitents, especially with those belonging to some one of the countless confraternities which the Church so zealously favors.

There are many other questions connected with the subject of satisfaction, of which a few deserve consideration here. The degree of obligation resting on the penitent to perform the imposed penance has been the source of endless debates ever since the system has been established. We have seen that the penitent is to be consulted as to what he will accept, and that it is even yet disputed whether he cannot elect to satisfy in purgatory, but this leaves open a wide field of discussion as to the duty of obedience and consequences of disobedience after a penance had been explicitly or impliedly accepted. In spite of the claim that what the Church binds on earth is bound in heaven, the earlier schoolmen recognized that the judgment of the priest might not be the judgment of God, and that a man might be bound on earth and yet loosed in heaven. If the penitent should die before completing the penance assigned to him, Peter Lombard has the unfailing resource of making him complete it in purgatory, but he adds that if the sinner's contrition has been sufficient to satisfy for his sins he will fly at once to heaven in spite of his unfinished penance.[2] His disciple, Peter of Poitiers, develops this to its inevitable consequence. A man on whom penance is unduly imposed is bound to perform it as regards the Church, but not as regards God, and if he dies forthwith he escapes purgatory; if, however, he lives he must endure it, for he is bound, and although it will not diminish any pains it will augment his glory.[3] All this implies that, so far as this life is concerned, there was no escape for the penitent, short of the customary redemptions or the procurement of an indulgence, which at that period was by no means so facile as it subsequently

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[1] Viva Cursus Theol. Moral. P. VI. Q. vi. Art. 1, n. 1.

Palmieri's treatment (Tract. de Pœnit. p. 440) of the rather ticklish subject of the sufficiency of satisfaction is a model of cautious non-committalism, leaving the penitent in the dark as to whether the judgment of the confessor is worthless or not, but leading him to infer that it must be good through the mysterious power of the keys.

[2] P. Lombard. Lib. IV. Dist. XX. § 2.

[3] P. Pictaviens. Summæ Lib. III. cap. 15.

became. At the same time we must bear in mind that already the penitent had to be consulted as to what he would accept.

When the Lateran canon rendered confession obligatory, it introduced a new factor, and it evidently hesitated to render the novel rule too onerous by asserting unqualifiedly the obligation of penance —it did not say that the penitent must perform it, but that he should endeavor to perform it with all his strength,[1] a convenient vagueness which left a sufficient margin of doubt. That penitents were in the habit of construing that doubt in their favor and of caring little about the performance of penance after securing absolution, is evident from the current advice given to confessors that to avoid disobedience they should give little or no penance as a precept, and should allow all fasts and prayers and almsgiving to be redeemed.[2] Astesanus discusses the matter with a fulness which shows its importance and uncertainty, and quotes from Richard Middleton, the *Doctor fundatissimus*, that, if the confessor abuses his power by imposing unreasonable and indiscreet penance, it is not binding, but if reasonable and discreet the penitent must accept and perform it under pain of mortal sin; if he dies before its completion he must satisfy in purgatory, and this applies to death-bed absolution.[3] The matter was thus virtually left open, except as to the sin of neglect in performance of accepted penance, and this became for awhile the customary teaching. St. Antonino so states it, but at the same time he indicates how common was this neglect by instructing the confessor, when absolving a penitent, always to include any former penances unperformed and to commute them if the penitent can recollect them.[4] Still the question as to the guilt of non-performance was unsettled. Prierias practically adopts the opinion of Richard Middleton, while Caietano denies that it is a mortal sin to omit the performance of penance.[5] The council of Trent discreetly abstained from any decisive utter-

[1] Et injunctam sibi pœnitentiam studeat pro viribus adimplere.—C. Lateranens. IV. cap. 21.

[2] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 135.—Astesani Summæ Lib. v. Tit. xxxi. Q. 2.

[3] Astesani Summæ Lib. v. Tit. vii. Q. 3; Tit. xxxi. Q. 2.—Rob. Episc. Aquinat. Opus Quadragesimale, Serm. XXIX. cap. 1.

[4] S. Antonini Summæ P. III. Tit. xiv. cap. 19, § 19; Tit. xvii. cap. 20, § 1.

[5] Summa Sylvestrina s. v. *Confessio Sacram.* I. n. 30.—Caietani Opusc. Tract. VI. Q. 2. Yet see also Tract. XX.

ance on the subject, leaving it open for those of contrary opinions to cite it in support of their views. The doctors consequently continued to differ. Azpilcueta and Zerola say that the penitent is not bound to accept the penance, but if he does so, he must perform it under mortal sin.[1] Bartolomé de Medina holds it to be a mortal sin to omit the performance if it can conveniently be done, and shows its frequency by instructing the confessor always to commence his interrogations by inquiring about it and ordering its performance if omitted.[2] Suarez is more severe, and asserts that as penance is very often wickedly neglected the confessor can refuse absolution at the next confession until the satisfaction previously imposed is performed.[3] The lax Juan de Medina says that the performance is discretional and depends upon the desire of the penitent to escape the pains of purgatory.[4] Every variety of opinion is to be found, and there is ample opportunity for the expression of all the shades of rigorism and laxism, which it would be superfluous to enumerate further here.[5] One solution of the vexed question, as we have seen above (p. 187), is that the confessor may impose a part or the whole of the penance either *sub lævi* or *sub gravi.*

With the steady decrease in the measure of satisfaction required the tendency has been to establish more firmly the obligation, and in this both laxists and rigorists have concurred—but yet with a difference. While Liguori, as the representative of the former, asserts the

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[1] Azpilcuetæ Manuale Confessar. cap. xxi. n. 43.—Zerola Praxis Sacr. Pœnit. cap. xxv. Q. 9.

[2] Bart. a Medina Instruct. Confessar. Lib. II. cap. 6.

[3] Francolini de Discipl. Pœnit. Lib. III. cap. vii. § 8, n. 13.

[4] Jo. Medina de Pœnit. Tract. III. de Satisfactione Q. 6 (Amort de Indulgentiis II. 153).

[5] The curious in such matters can find all that they are likely to desire in Estii in IV. Sentt. Dist. xv. § 20.—Fornarii Instit. Confessar. I. cap. 3.—Reginaldi Praxis Fori Pœnit. Lib. VII. n. 13, 33.—Summa Diana s. vv. *Pœnitentiam acceptare; Pœnitentiam implere* n. 15, 22.—Escobar Theol. Moral. Tract. VII. Exam. iv. n. 34, 40.—Tamburini Method. Confess. Lib. IV. cap. ii. § 1.—Juenin de Sacramentis Diss. VI. Q. vi. cap. 6, Art. 2.—Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. Dub. 4, Art. 1, n. 8.—Clericati de Pœnit. Decis. XXX. n. 6. 8, 9.—Viva Theol. Trutina in Prop. XV. Alex. PP. VII.—Antoine Theol. Moral. Tract. de Pœnit. Art. III. Q. 7.—Bened. PP. XIII. Istruzioni per gli Figliuoli (Concil. Roman. ann. 1725, p. 446).—La Croix Theol. Moral. Lib. VI. P. ii. n. 1277-81.—Habert Praxis Sacr. Pœnit. Tract. V.—Bened. PP. XIV. Encyc. *Inter præteritas* § 65, 3 Dec. 1749.

obligation, he qualifies it with the condition that the penance enjoined shall be just; if unjust, or, if the penitent is unable to perform it, it does not bind. Concina, on the other hand, maintains unconditionally the obligation to accept and perform; he asks whether penitents are to be judges in their own cases; he admits that the laxer opinion is current, but declares that it is false and opposed to the universal tradition of the Church.[1] Whether this question has been finally settled would appear doubtful. Miguel Sanchez follows Liguori in conditioning that the penance must be just. Marc only offers the penitent the alternative, in case too hard a penance is imposed, of departing without absolution and seeking a more tractable confessor.[2] Palmieri declares that no power on earth can release the penitent from the satisfaction imposed by the confessor, whose decision is absolutely beyond appeal, except by the indirect method of obtaining an indulgence.[3] While thus there are yet differences of opinion in detail, the modern tendency is evidently towards establishing the obligation, but the theologians omit to reconcile this with the recognized voluntary character of penance.

While theoretically the obligation to accept and perform has been construed more strictly, the subordinate importance ascribed to penance in modern times is visible in the tenderness shown to those who omit performance through forgetfulness. It would seem as though the disrespect thus manifested to the sacrament should be treated as a most serious offence, especially as it would appear to be common if we may judge from the manner in which it is frequently alluded to. Up to the first half of the sixteenth century the rule was that if the penitent forgot or neglected to perform the penance the absolution was void and the confession had to be repeated with a fresh injunction of satisfaction.[4] Post-Tridentine theologians are more lenient, although this involves a notable change of doctrine respecting the

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[1] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 515–16.—Concina Theol. Christ. contractæ Diss. II. cap. 10, n. 1.

[2] Mig. Sanchez, Prontuario de la Teología Moral, Trat. VI. Punto vi.—Marc Institt. Moral. Alphonsianæ n. 1721.

[3] Palmieri Tract. de Pœnit. p. 458.

[4] Manip. Curator. P. II. Tract. iii. cap. 7.—Passavanti, Lo Specchio della vera Penitenza, Dist. V. cap. 5.—Summa Angelica s. v. *Confessio* IV. § 13.—God. Rosemondi Confessionale fol. 114*a*.—Martini de Frias de Arte audiendi Confessionis fol. vii*b*.

sacrament. They agree that a repetition of the confession is unnecessary and that the penitent cannot substitute anything, for that would be unsacramental. Some suggest that the forgetfulness be included in the next confession ; others that if the confessor retains a confused recollection of the case he may be asked for a commutation, or a general confession of sin may be made to another confessor, asking him for sufficient penance to cover that which was forgotten.[1] Others are still more liberal. Tamburini says that to forget the penance discharges all obligation to perform it or to confess again, only if the forgetfulness is culpable it ought to be confessed ; Chiericato asserts that a penitent who forgets a penance and thinks he has performed it is excused from it.[2] The laxist view has prevailed. As expressed by Liguori, it is that to forget a penance is no sin ; if the penitent can easily learn from his confessor what it was, he ought to perform it ; otherwise it is well for him in his next confession to ask for something similar, but probably the confession need not be repeated.[3] Manzo says that if the forgetfulness is culpable there is sin, otherwise not, and that in neither case need the confession be repeated.[4] Bonal declares positively that the confession need not be repeated ; the performance of a forgotten penance is impossible, and no one is held to an impossibility.[5] Evidently the satisfaction, on the adjustment of which is based the whole theory of confession, has shrunk to the merest formality.

A similar deduction may be drawn from the current opinions as to the time in which the penance should be performed, though as usual the views of the rigorists and laxists are at variance. The former hold that it should be done as soon as possible, or at least within the time specified by the confessor ; unnecessary delay is a mortal sin.[6]

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[1] Jo. Sanchez Selecta de Sacramentis Disp. XV. n. 11.—Escobar Theol. Moral. Tract. VII. Exam. iv. n. 40.—Gobat Alphab. Confessar. n. 769.—Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. Dub. 4, Art. 1, n. 8.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1275.

[2] Tamburini Method. Confess. Lib. IV. cap. ii. § 4.—Clericati de Pœnit. Decis. XXXIV. n. 23.

[3] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 515–16 ; Praxis Confessarii n. 13.—Mig. Sanchez, Prontuario de la Teología Moral, Trat. VI. Punto vi.—Gury Comp. Theol. Moral. II. 530.

[4] Manzo Epit. Theol. Moral. P. I. De Pœnit. n. 57 (Ed. II. Neapoli, 1836).

[5] Bonal. Instit. Theol. T. IV. n. 291.

[6] Antoine Theol. Moral. De Pœnit. Art. III. Q. 8.—Th. ex Charmes Theol.

The latter consider that time makes little difference; if the confessor prescribes it, postponement is only a venial sin; if the confessor affixes no time, it suffices to perform it within a year unless the penitent confesses again sooner.[1] The modern view seems to be not quite so lax as this; in the case of heavy penance for grave sins, a delay of two or three months is thought to be probably a mortal sin.[2]

Allusions have been made above to unjust and unreasonable penance, and though, at the present time of minimized satisfaction, the question cannot be of much practical importance, of old, when the penitential canons were not wholly obsolete, it had no little interest, for, although consultation with the penitent was recognized, all rules were as yet too vague to be binding when the confessor was arbitrary and the penitent ignorant or timid. In theory the priest in the confessional, as the living representative of God, had authority only limited by the canons and by the jurisdiction accorded to him in his diocese, but human frailty can scarce avoid abusing irresponsible power, and though no provision is made in the canon law for appeal from his decisions, outside of the law custom gradually established a means of relief. At the close of the twelfth century, when the jurisdiction of the parish priest had only just been established, it was admitted that any other priest could mitigate a penance imposed by him.[3] The Lateran canon seemed to take away this privilege, but it soon reasserted itself. In 1317, Astesanus discusses the question at some length, in a manner to show how confused and uncertain as yet was the practice. He admits that if the confessor abuses the power of the keys by imposing indiscreet and unreasonable penance, the penitent is not obliged to assume and perform it, but the remedy

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Univ. Dist. v. cap. 5, Q. 2, Concl. 2.—Concina Theol. Christ. contract. Lib. XI. Diss. ii. cap. 10, n. 3.

[1] Reginaldi Praxis Fori Pœnit. Lib. VII. n. 43.—Escobar Theol. Moral. Tract. VII. Exam. iv. n. 40.—Summa Diana s. v. *Pœnitentiam commutare* n. 19, 21.—Tamburini Method. Confess. Lib. IV. cap. ii. § 2, n. 9.—Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. Dub. 4, Art. 1.—Clericati de Pœnit. Decis. XXXIV. n. 20.

[2] Gury Compend. Theol. Moral. II. n. 530.—Bonal. Instit. Theol. T. IV. n. 291.—Varceno Compend. Theol. Moral. Tract. XIV. cap. 5, Art. 2.

[3] Bernardi Papiens. Summæ Decretalium Lib. V. Tit. xxxiii. § 6.—"Consuetudo tamen ecclesiæ admisit ut ab aliis sacerdotibus pœnitentia relaxetur vel minuetur."

was not so easily defined. In such cases Richard Middleton suggests that he should apply to the confessor or to another for some mitigation. The one who imposes can always commute or relax, and so can a superior, but whether an equal can do so was a disputed question, affirmed by some and denied by others. Astesanus thinks that he can, but a penance of service in the Holy Land can only be commuted by the pope or his immediate deputy.[1] By the middle of the fourteenth century the principle of appeal seems to have established itself, for Passavanti and St. Antonino say that if a penitent finds his penance too onerous he can go to another priest and have it commuted, and subsequent authorities assert that any priest can mitigate or relax the penance imposed by another.[2] In the existing rivalry between the secular and regular confessors it is easy to see how great an influence this must have exercised on the progressive diminution of satisfaction.

The principle once admitted developed itself among the post-Tridentine theologians until it was asserted that even an inferior could mitigate a penance imposed by a superior.[3] It even became an open question with some whether the penitent could do so for himself.[4] In appealing to another confessor, however, it was assumed that confession must be made to the latter, which would seem natural, as the act is sacramental, and otherwise he would not have the requisite knowlege of the facts, but even this was denied by some authorities, who held it to be unnecessary.[5] The rigid Père Juenin endeavored to restrain this laxity; he argued that there could be no appeal from a penance imposed *clave non errante*, though there could be one, *clave errante*, but he offers no test by which the indefinable distinction can be defined; he says that the authorities are evenly

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[1] Astesani Summæ Lib. v. Tit. xxxi. Q. 2.

[2] Passavanti, Lo Specchio della vera Penitenza, Dist. v. cap. 5.—S. Antonini Summæ P. III. Tit. xiv. cap. 19, § 19.—Summa Angelica s. v. *Confessio* VI. § 4. —Summa Sylvestrina s. v. *Confessio Sacram.* I. §§ 30, 31.

[3] Zerola Praxis Sacr. Pœnit. cap. XXV. Q. 10; cap. XXVI. Q. 36.—Henriquez Summæ Theol. Moral. Lib. v. cap. xxii. n. 1, 2.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1294. Liguori, however, says (Theol. Moral. Lib. VI. Art. 529) that the common opinion is adverse to this.

[4] Henriquez Summæ Theol. Moral. Lib. v. cap. xxii. n. 3.—Gobat Alphab. Confessar. n. 775–6.

[5] Summa Diana s. v. *Pœnitentiam commutare* n. 11, 12.—Gobat Alphab. Confessar. n. 775–6.

divided as to the power of one confessor to set aside the judgment of another, and advises that in so doubtful a matter the safer course be followed.[1] His protest was in vain. Both the rigorists and the laxists admit the right of a penitent on whom an unjust or an unreasonable penance is imposed to have recourse to another confessor, though the rigorists argued that commutation should be allowed only for weighty reasons. Liguori says that if the penitent thinks the penance too heavy, his proper course is to depart without absolution and seek another priest, and this appears to be the ordinary practice at present, though he can also appeal to another after a completed sacrament.[2] Whether he is then at liberty to elect the performance of the first penance is a disputed point.[3]

There is a question which has excited endless debate and has led to very varying practice—whether the works of satisfaction must be performed in a state of grace, or whether they suffice if the penitent commits a mortal sin subsequent to absolution and prior to accomplishing the penance. We have seen in the ancient Church that reconciliation was postponed until the prescribed penance had been completed, and that it was an innovation of the Penitentials when the penitent was admitted to communion midway in the term, all of which presupposes the efficiency of the works performed while yet in a state of sin. The schoolmen, however, developed the theory that all works without grace are "dead," are wholly insufficient to restore the sinner, and when the Jansenists sought to revive the ancient practice of deferring absolution to the end of penance, they were triumphantly told that penance before absolution is useless, for absolution is essential to render the works acceptable to God. Apart from these theological abstractions it would appear self-evident that a man so abandoned to sin as not to be able to abstain from it, while

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[1] Juenin de Sacramentis Diss. VI. Q. vi. cap. 5, Art. 1.

[2] Clericati de Pœnit. Decis. XXX. n. 9.—Summæ Alexandrinæ P. I. n. 623.—La Croix Theol. Moral. Lib. VI. P. ii. n. 1293-4.—Antoine Theol. Moral. Tract. de Pœnit. Art. III. Q. 7.—Concina Theol. Christ. contract. Lib. XI. Diss. ii. cap. 10, n. 5.—Th. ex Charmes Theol. Univ. Diss. V. cap. 5, Q. 2, Concl. 2.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 515, 529; Praxis Confessar. cap. I. n. 13.—Reuter Neoconfessar. instructus n. 19.—Gury Comp. Theol. Moral. II. 533.—Bonal Instit. Theol. T. II. n. 289.

[3] Manzo Epit. Theol. Moral. P. I. De Pœnit. n. 65.

yet performing the slender tasks imposed on him as the price of his pardon, could scarce be considered as deserving of absolution, and a text from the False Decretals, embodied in the compilation of Gratian, emphatically declares that fasting and prayer are useless to him who has not forsaken iniquity.[1] The schoolmen naturally took up the subject with their customary determination to settle every detail and their customary lack of harmony. Bishop William of Paris says uncompromisingly that works not performed in charity do not placate God and are not satisfactory.[2] To reduce this to practice, however, was impossible, for the churchmen could not tell whether the penitent was in charity or not, and Alexander Hales suggested that penance performed in sin satisfies the Church, though it does not satisfy God; it ought to be repeated in charity, but if not it at all events earns for the penitent some temporal prosperity, in all of which Cardinal Henry of Susa agrees with him.[3] Aquinas requires absolutely the repetition of works performed without charity, but thinks that they may serve to mitigate the pains of hell; he also suggests another point of importance—whether such dead works revive when the sinner returns to grace, for in this case a subsequent confession with due attrition would serve to revalidate them, but this he rejects.[4] Bonaventura agrees that works without charity alleviate the tortures of hell, and tells us that some authorities hold that they exempt from the torment of the worm, but not from that of fire; as for their revival, there are opinions on both sides, but the negative is safer.[5] John of Freiburg sums up the conclusion that such works do not reconcile to God, but they reduce the punishment of the Day of Judgment, bring worldly prosperity, open the heart to repentance and loosen the hold of the devil on the sinner; if physical, they need not be repeated, if mental they must be.[6] Duns

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[1] Cap. 21 Caus. XXXIII. Q. iii. Dist. 3.—"Nihil prodest homini jejunare et orare et religionis bona agere, nisi mens ab iniquitate revocetur"—attributed to St. Pius I.

[2] Guillel. Paris. de Sacr. Pœnit. cap. 20.

[3] Alex. de Ales Summæ P. IV. Q. XXIV. Membr. iv. Artt. 1, 2, 3 § 1.—Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remiss. § 58. So also Pet. Hieremiæ Quadrigesimale Serm. XIV.

[4] S. Th. Aquinat. Summæ Suppl. Q. XIV. Artt. 2, 3, 5. Cf. Durand. de S. Porciano in IV. Sentt Dist. XV. Q. ii. § 9.

[5] S. Bonavent. in IV. Sentt. Dist. XV. P. 1, Art. 1, Q. 4, 6.

[6] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 130-2, 138, 140-2.

Scotus, by a process of subtile dialectics, proves that works without charity satisfy the Church and suffice for God, though they do not placate him, and therefore they need not be repeated.[1] Astesanus denies that works of satisfaction can be performed in sin, though they may mitigate the punishment, and if commenced in charity can be completed in sin; moreover, they are not revived by subsequent charity.[2] In this variety of opinion every one could suit himself, and there were many who embraced the compromise suggested by Alexander Hales, that penance in sin satisfies the Church but not God, whence they reached the conclusion that short penances are advisable in order to expose the penitent to as little risk of relapse as possible during their performance—apparently not realizing that this is a mere juggle with God.[3]

The question continued unsettled. Prierias, faithful to his master Aquinas, says positively that penance performed in mortal sin is worthless, though it need not be repeated, but some substitute must be undergone either here or in purgatory.[4] Caietano states that it is *sub judice;* he argues it at great length and with much subtilty; he admits that penance without charity satisfies the Church Militant, and thinks that perhaps the soul can make up the deficiency in the Church Triumphant.[5] The council of Trent might have settled the debate, and probably it imagined that it had done so when it launched an anathema against those who should teach that works without grace can justify before God.[6] In accordance with this the Tridentine Catechism declares that to satisfy God the penitent must be justified, and that works performed without faith and charity cannot be in

[1] Jo. Scoti in IV. Sentt. Dist. xv. Q. 1.

[2] Astesani Summæ Lib. v. Tit. xxii. Q. 4, 5, 6, 8.

[3] Jo. Gersonis Regulæ Morales; Compend. Theol.; De Sollicitudine Ecclesiasticorum Partic. lx.—S. Antonini Summæ P. III. Tit. xiv. cap. 20, §§ 1, 2.—Summa Angelica s. vv. *Confessio* I. § 19; *Interrogationes; Pœnit.* § 14.

A cloud of subsidiary questions and distinctions inevitably suggested themselves. Thus Gerson divides satisfaction into *reconcilians*, which must be performed in grace, and *satisfaciens* or *exsolvens*, which need not be repeated if performed without grace, but he does not explain the distinction. St. Antonino states that the doctors distinguish between penances which pass away, like prayers, and must be repeated, and those which leave effects behind them, like fasting and almsgiving, and need not be.

[4] Summa Sylvestrina s. v. *Satisfactio* n. 6, 7.

[5] Caietani Opusc. Tract. VI. Q. 2.

[6] C. Trident. Sess. VI. De Justificatione can. 1.

any way pleasing to God.[1] After this to admit that penance in sin can satisfy the Church would seem to dissociate completely the Church from God, but no dialectics could remove the insuperable difficulty that, while God knows the heart of man, the Church cannot, and must be content to accept externals, however humiliating this may be to its infallibility. Accordingly the debate has continued to the present day with every variety of opinion on the part of authoritative doctors, some holding that penance in sin satisfies the Church but not God, others that it does not, but that this cannot be helped; some that such penance should be repeated, others that it need not be; some that it revives when the penitent acquires grace, others that it does not. Benedict XIII., in 1725, authorized the declaration that it is the common opinion that such penance satisfies the obligation imposed by the Church, and need not be repeated, and the tendency of recent authorities is in this direction—the obligation is satisfied, though it is probable that the *pœna* is not escaped. The question, however, is still an open one.[2] A subsidiary point is whether it is a sin to perform penance in sin, but La Croix settles this with the remark that as no penitent hesitates to do so, it would seem merely common-sense to affirm that it is no sin.[3]

Somewhat akin to this is a question which illustrates the per-

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[1] Catech. Trident. De Pœnitentia cap. xiii.

[2] The conflicting views of post-Tridentine theologians can be found in Bart. a Medina Instruct. Confessar. Lib. II. cap. vi.—Zerola Praxis Sacr. Pœnit. cap. XXV. Q. 18, 28.—Estii in IV. Sentt. Dist. XV. §§ 16, 17.—Henriquez Summæ Theol. Moral. Lib. V. cap. 20.—Reginaldi Praxis Fori Pœnit. Lib. VII. n. 9.—Summa Diana s. v. *Pœnit. Commutare* n. 23.—Escobar Theol. Moral. Tract. VII. Exam. iv. n. 34, 40.—Alabardi Tyrocin. Confessionum p. 79 (Venet. 1628).—Berteau Director Confessar. p. 486.—Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. Dub. 4, Art. 1, n. 8.—Gobat Alphab. Confessar. n. 770.—Tamburini Method. Confess. Lib. IV. cap. ii. § 2, n. 10.—Juenin de Sacramentis Diss. VI. Q. vi. cap. 6, Art. 3.—Clericati de Pœnit. Decis. VIII. n. 4, 7; Decis. XXXIV. n. 21.—Istruzione per gli figliuoli (Concil. Roman. 1725, p. 446).—Antoine Theol. Moral. De Pœnit. cap. I. Art. iii. Q. 9.—Wigandt Trib. Confessar. Tract. XIII. Exam. iii. n. 129.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 522–3.—Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* Art. III. n. 6, 7.—Concina Theol. Christ. contr. Lib. XI. Diss. ii. cap. 8, n. 4.—Th. ex Charmes Theol. Univers. Diss. V. cap. 5, Q. 2, Concl. 2.—Menzo Epit. Theol. Moral. P. I. De Pœnit. n. 60.—Gury Comp. Theol. Moral. II. n. 529.—Bonal Instit. Theol. T. IV. n. 291.—Palmieri Tract. de Pœnit. p. 425.—Varceno Comp. Theol. Moral. Tract. XVIII. cap. 5, Art. 2.

[3] La Croix Theol. Moral. Lib. VI. P. ii. n. 1245–6.

plexities inseparable from so artificial a system as that of sacramental confession. It is whether works of satisfaction can be performed for sins not yet remitted. Practically it would appear impossible to remit the *pœna* of sins of which the *culpa* still exists, but strong arguments can be adduced on either side, and the advocates of the affirmative allege in their support what would appear to be unanswerable—an indulgence of fifteen years granted, in 1658, by Alexander VII. to all present at the mass celebrated on the occasion of the presentation of the Golden Rose to the chapter of Siena, provided they had confessed their sins or intended to confess them according to precept.[1]

One noteworthy peculiarity of satisfaction is the ability to have it performed vicariously, by putting forward a substitute who will endure the penance imposed on the sinner. The origin of this custom may be traced to several influences, though it is nominally based on the text James, v. 16.[2] The preponderating influence in the development of the practice, however, was the interpolated article in the Creed on the communion of saints and the interpretation given to it that all can participate in the merit of good works by others when properly applied. Thus the idea that one man can satisfy for another, even as the vicarious sacrifice of Christ atones for the sins of mankind, gradually took shape and grew into a settled custom. Gregory the Great deprecates the manner in which sinners expect to be justified through faith and through penance performed by others, while they do not even experience sorrow.[3] That this should find special favor with the Barbarians was natural, for among them it was customary to present a champion or substitute in the judicial combat or ordeal, when the judgment of God was sought, and to the untutored mind of the period it might seem that the penitent before the judgment-seat of God could avail himself of the same resource. Another stimulant of the custom may be found in the system of redemptions alluded to above (pp. 152–4), where, it will be remembered, these sometimes took the shape of the penitent hiring holy men to pray or recite the psalms in his place, or to celebrate masses for him. A sin-

[1] Clericati de Pœnit. Decis. VIII. n. 8, 9.

[2] In the Douay version this reads "Pray one for another that you may be saved"—in the Vulgate "ut salvemini." The passage evidently refers to prayers for the sick. In the original it is ὅπως ἰαθῆτε, and would seem correctly rendered "healed" in the A. V.

[3] Gregor. PP. I. Exposit. in I. Regum Lib. VI. cap. ii. § 27.

gularly crude expression of this vicarious penance among the Anglo-Saxons of the latter half of the tenth century shows the practice to be fully established. It explains how a powerful man can lighten a seven years' penance by wearing sackcloth and going barefoot for three days and getting 852 men to fast for three days, which makes as many days as there are in seven years.[1] We have seen an illustration of it (I. p. 192) in the frequent instructions of the *Ordines* that the priest should for two or three weeks share the fast of his penitent. As early as the seventh century a monastic regulation provided that when one of the brethren was afflicted with evil thoughts the whole community was placed on a fast which increased in severity until the general maceration effected a cure, and among the canons regular of the twelfth century, when a member died, the rest performed vicarious satisfaction for him from the seventh to the thirtieth day.[2]

It is easy to understand why the custom of substitutes for penitents should be encouraged, for ecclesiastics found in it a source of profit. The penitent in search of such a substitute would naturally look for a cleric on whom the fasting and prayer and disabilities would be less onerous, whose performance of the works could be more surely depended on, and whose holiness would render them more efficacious. This service would necessarily be paid for, and thus vicarious penance was only another form of redemption. How it worked is seen in a charter of 1154, by which Count Hildebrand abandoned to the Abbey of St. Saviour certain disputed lands in consideration of spiritual services, among which was relieving him from the burden of three years of penance imposed on him for his sins by the Bishop of Arezzo.[3] So much a matter of course did it become that regular tariffs were established for the performance of pilgrimages by such substitutes.[4]

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[1] Canons under King Edgar: Of Powerful Men, cap. 2 (Thorpe, II. 287).

[2] Regulæ Magistri cap. xv. (Migne LXXXVIII. 981).—P. de Honestis Regulæ Clericorum Lib. II cap. 22.

[3] Muratori, Antiq. Ital. Diss. LXVIII. (T. XIV. p. 101).

[4] From ancient wills on record in London it appears that the price for a barefooted pilgrimage to St. Thomas of Canterbury or St. Mary of Walsingham was twenty shillings; to Compostella it was seven pounds; to Rome, including a Lent of prayer there, it was ten marks. For the Holy Land, including Mt. Sinai, twenty pounds are offered, but some doubt seems to be felt whether a pilgrim can be had for the money.—London Athæneum, Sept. 5, 1891, p. 318.

Even as late as 1666 Gobat tells us (Alphab. Confessar. n. 768) that a con-

An illustration of the method, where filial piety took the place of payment, is afforded by a formula of the papal penitentiary. A man makes the pilgrimage to Rome in discharge of penance imposed on his father to spend Lent there in religious duties, but he finds the expenses too heavy and applies to the pope for relief, when a letter is written to his bishop to commute into pious works the money thus saved with something added.[1] Thus good works could be bought and sold and transferred from one to another like any other merchandise.[2]

The schoolmen were not wholly at one with regard to the use of this process. Some, like Alexander Hales, held that only impotence on the part of the penitent to perform the penance justified the employment of a substitute, and the assent of the confessor was requisite.[3] Aquinas and Bonaventura do not limit it to cases of impotence, but say that medicinal penance cannot be thus transferred, as this mode of satisfaction has no medicinal effect.[4] Astesanus accepts it as a matter of course, and argues that it benefits both principal and substitute.[5] Durand de S. Pourçain treats it wholly as a business transaction, showing how materialistic were the conceptions of the relations between man and God. Even as one man can pay the debt of another, so one man can satisfy God for another; to be sure, the reward is greater if a man performs penance for himself, and if he

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fessor can impose a pilgrimage to be performed by a substitute paid by the penitent.

[1] Formulary of the Papal Penitentiary, p. 161 (Philadelphia, 1892).

[2] The theory as perfected by the schoolmen is thus expressed.—" Opus unius potest alteri valere, non solum per viam orationis, sed etiam per viam meriti. Quod quidem dupliciter contigit. Uno modo propter communicationem in radice operis meritorii quæ est charitas. Et sic omnes qui invicem charitate connectuntur aliquod emolumentum ex mutuis operibus reportant, secundum mensuram status uniuscujusque; quia unusquisque in propria gaudebit de bonis alterius. Et inde est quod articulus fidei ponitur, communio sanctorum. Alio modo ex intentione facientis: ut cum quis aliqua opera specialiter ad hoc facit ut talibus prosint. Unde ista opera quodammodo efficiuntur eorum pro quibus fiunt, quasi eis a faciente collata. Unde possunt eis valere vel ad impletionem satisfactionis vel ad aliquod hujusmodi quod statum eorum non mutat."—Astesani Summæ Lib. III. Tit. xxxvii. Art. 1. Cf. S. Th. Aquin. Quodl. VIII. Art. ix.; Gabr. Biel in IV. Sentt. Dist. XLV. Q. ii. Art. 1.

[3] Alex. de Ales Summæ P. IV. Q. XXIV. Membr. iv. Art. 4.

[4] S. Th. Aquin. in IV. Sentt. Dist. XX. Q. ii. ad 2; Summæ Suppl. Q. XIII. Art. 2.—S. Bonavent. in IV. Sentt. Dist. XX. P. ii. Art. 1, Q. 1. Cf. Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 129.

[5] Astesani Summæ Lib. v. Tit. xxii. Q. 4, 5.

dies before the substitute has completed the work enjoined, he must settle for the balance in purgatory, and if the substitute continues after the principal is released, the remainder inures to his own benefit; if the priest consents to the arrangement, there is no doubt of its efficacy; if he does not, it is doubtful.[1] Pierre de la Palu is more rigid; if a substitute is employed through mere weakness of the flesh, the penance does not satisfy; if the penitent is employed in more useful work, such as fighting the infidel, or preaching, or performing pilgrimages, it is accepted.[2] Guido de Monteroquer imposes even stricter conditions; there must be manifest impossibility on the part of the principal, the substitute must be of near kin, both must be in charity, and the amount of penance must be increased; besides, it is probable that the assent of the priest is requisite.[3] Thomas of Strassburg again is lax; it is sufficient if the penitent cannot conveniently perform the works enjoined,[4] and Gerson seems to think that nothing is requisite save an understanding between the parties.[5] St. Antonino says that if the confessor imposes it on the penitent personally he must perform it unless impeded; the substitute can even transfer it to a third party; if the substitute is in a higher state of grace than the principal, the performance is more efficacious, and therefore in selecting one it is well to choose the holiest—which is a thrifty argument in favor of ecclesiastics—but if he should secretly happen not to be in a state of grace, it is hoped that God will apportion the pains of purgatory to the penitent according to his deserts. He further recommends that the friends of a dying penitent should be requested to perform some penance for him.[6] Henry of Hesse even says that if a dying man accepts penance and a friend promises to perform it for him the soul flies at once to heaven and enjoys the Beatific Vision without waiting for the performance,[7] which would seem reasonable enough, as he ought not both to provide penance and endure purgatory; but Prierias denies this and holds that the soul

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[1] Durand. de S. Porciano in IV. Sentt. Dist. xx. Q. ii. §§ 5–8.

[2] P. de Palude in IV. Sentt. Dist. xx. Q. iii.

[3] Manip. Curator. P. II. Tract. iv. cap. 6.

[4] Th. de Argentina in IV. Sentt. Dist. xx. Art. ii. (Amort de Indulg. II. 87).

[5] Jo. Gersonis Regulæ Morales (Ed. 1488, xxv. G).

[6] S. Antonini Summæ P. III. Tit. xiv. cap. 20, § 1; Tit. xvii. cap. 21, § 4.—Ejusd. Confessionale fol. 70.

[7] Weigel Claviculæ Indulgent. cap. lxxvii.

must remain in purgatory until the penance is completed, which again is only a reasonable precaution to insure performance. Prierias further assumes that if the confessor enjoins personal performance the penance can only be transferred in case of absolute disability; the substitute can employ a third party, but all must be in charity, and the question whether the performer can at the same time satisfy for himself is a disputed one.[1] Caietano states unreservedly that one man can satisfy for another, provided both are in charity.[2]

The Tridentine Catechism accepts fully the principle of vicarious satisfaction. The penitent must have due contrition, but the penitential works can be performed by others, though personal performance is more fruitful.[3] While thus the principle was settled, there continued to be disputes as to the distinction between penal and medicinal penance, as to whether there must be disability on the part of the penitent, and whether the substitute can at the same time satisfy for himself.[4] It became generally asserted or tacitly assumed that the assent of the confessor was necessary, but in the prevailing laxity there were those who taught that the matter is at the discretion of the penitent. This proposition was condemned, in 1665, by Alexander VII.,[5] and in so doing there was an implication that vicarious satisfaction with consent of the confessor is allowable. There had never been any authoritative definition of this, however, unless the assent of the Tridentine Catechism be so regarded, and some of the more rigorous school denied that satisfaction can be rendered by a substitute, while others held that while it might satisfy the Church if assented to by the confessor, God is under no obligation to accept it, and its value as exempting from purgatory is at least doubtful.[6] The great body of modern theologians, however,

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[1] Summa Sylvestrina s. v. *Pœnitentia* §§ 3–5.

[2] Caietani Opusc. Tract. XV. cap. 2; Tract. XVI. De Indulgentiis Q. 1.

[3] Catech. Trident. De Pœnit. cap. 13.

[4] Fornarii Instit. Confessar. Tract. I. cap. iii.—Henriquez Summæ Theol. Moral. Lib VI. cap. xxi. n. 4.—Escobar Theol. Moral. Tract. VII. Exam. iv. n. 34, 40.—Summa Diana s. v. *Pœnitentiam imponere* n. 6.—Estii in IV. Sentt. Dist. XXV. § xxii.—Zerola Praxis Sacr. Pœnit. cap. XXV. Q. 20, 22.—Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. Dub. 4, Art. 1.

[5] Alex. PP. VII. Decr. 7 Sept. 1665, Prop. XV.—"Pœnitens, propria auctoritate, substituere sibi alium potest qui loco ipsius pœnitentiam adimpleat."

[6] Antoine Theol. Moral. De Pœnit. Art. III. Q. xi.—Amort de Indul-

both rigorists and laxists, accept the validity of vicarious penance when assented to by the confessor.[1] Palmieri argues the matter in the curious mercantile spirit which has grown up since the theory of the treasure of salvation has been adopted, carrying with it the assumption that a debtor and creditor account is kept between each sinner and his Creator. Satisfaction for the temporal punishment due for remitted sin is the payment of a debt. Now one man can pay another's debt, and the wounded honor of God is satisfied, no matter from whom the payment comes, provided both principal and substitute are in a state of grace. It is true that God is not bound to accept such vicarious payment, but if he so wills there is nothing to prevent one man from satisfying for another. It is granted that there is a difference between this and the intercessory prayers relied upon in the early Church and still regarded as so efficient, but it is argued that if God accepts the latter he cannot reject the former. Still, it is a disputed question whether the application of such vicarious satisfaction is infallible, and Palmieri inclines to the negative, while leaving the matter open.[2]

Frequent allusion has been made above to the distinction between what is called vindictive and medicinal satisfaction, and the subject is of interest as marking a very significant change in the theories of the Church. We have seen how exclusively punitive, in the earlier ages, were the penances prescribed; how, as the sacramental theory developed, they were regarded as replacing the torments of purgatory, and how the very name of satisfaction indicates that they satisfy God for the wrong committed against him by the sinner. According to Aquinas, no work is satisfactory unless it is penal, but he recognizes that, in addition to this which pays the debt otherwise to be exacted in purgatory, there is a medicinal penance of which

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gentiis II. 211, 252.—Ferraris Prompta Biblioth. s. v. *Pœnit. Sacram.* Art. III. n. 23.

Thomas de Charmes (Theol. Univ. Diss. v. cap. 5, Q. 2, Concl. 2) accepts it to a limited extent.

[1] Juenin de Sacramentis Diss. VI. Q. vi. cap. 6, Art. 1.—La Croix Theiol Moral. Lib. VI. P. ii. n. 1284.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 526.—Viva Cursus Theol. Moral. P. II. Q. vi. Art. 2. n. 7.—Concina Theol Christ. contr. Lib. XI. Diss. ii. cap. 8, n. 5.—Varceno Comp. Theol. Moral. Tract. XVIII. cap. 5, Art. 2.

[2] Palmieri Tract. de Pœnit. pp. 340–5.

It is perhaps worthy of remark that the Lateran canon as embodied in the

the object is not satisfaction but the amendment of the sinner.[1] The distinction was not very clearly understood at first, and the two were sometimes curiously confused. Thus we are told that unchastity is a greater sin in an old man than in a youth, but the youth should have the severer penance because he requires greater repression to prevent relapse.[2] In fact, medicinal penance was a somewhat incongruous addition to the function of the keys, for, strictly speaking, it had nothing to do with the power to bind and to loose, and its only excuse could be sought in the additional efficiency, *ex opere operato* attributed to works enjoined in the sacrament; it could have no value in entitling the sinner to absolution, since the sins which he might commit in the future were wholly conjectural and could not be material for the sacrament. Durand de Saint-Pourçain recognized this when he said that medicinal penance is purely for this world, and its non-performance exercises no influence on the hereafter of the penitent, for in purgatory is only exacted the punishment required to pay the debt and not to preserve against relapse.[3] Yet with time the conception grew of the duty of the Church to provide for the moral improvement of its children, and Angiolo da Chivasso, while admitting that the penitent can refuse vindictive penance and elect to suffer in purgatory, says that he has no right to reject the medicinal penance imposed to prevent relapse.[4] This increased importance of the medicinal aspect of penance may in part be attributed to the disuse of the severer penalties, which thus were no longer deterrent to the penitent or examples to others, and to the absurd contrast between the triviality of the infliction and the punishment due to the sins for which it was offered in satisfaction. This leads Caietano to describe all penances as medicinal; the penitential judgment is not an absolute judgment but a medicinal judgment.[5]

It would seem that the council of Trent, while recognizing medicinal penance, feared that in its development the punitive character

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canon law (Cap. 12 Extra Lib. v. Tit. xxxviii.), in the clause enjoining the performance of penance, has the words *propriis viribus* instead of *pro viribus*. If this be the true reading, it would forbid vicarious satisfaction, but it evidently has not been so regarded.

[1] S. Th. Aquinat. Summæ Suppl. Q. VIII. Art. 7; Q. XV. Art. 1.

[2] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 104.

[3] Durand. de S. Porciano in IV. Sentt. Dist. xx. Q. 1, § 5.

[4] Summa Angelica s. v. *Confessio* I. § 36.

[5] Caietani Opusc. Tract. v. De Confessione Q. 3.

of satisfaction might disappear, for it warned all confessors that what they prescribed should be not only to cure the infirmity, but should also be a retribution and punishment for past sins.[1] The Tridentine Catechism followed in the same lines. It dwells at much length on the value of penance to satisfy God for actual sins and to replace the pains of purgatory, for which reasons it should be sharp; if properly adjusted to the failings of the penitent it will also prove deterrent; the only allusion to medicinal penance being the remark that it is not fruitful if performed vicariously.[2] The efforts of the council, however, as we have seen, failed utterly to restore any portion of the ancient rigor, and the medicinal feature of penance continued to attain more prominence as its punitive character vanished. In fact, with the merely nominal penitence habitually imposed, there was left no other excuse for the so-called integral part of the sacrament. In this the laxists and the rigorists concurred. The laxists found in it a reason for yielding to the fragility of penitents; they discovered that the sacrament is merely a medicine, and that the penance should be curative, not punitive.[3] The rigorists, on the other hand, seemed to recognize that not much amendment of life was to be expected from the sacrament *ex opere operato;* that severe penances had become impossible, and that more was to be hoped for from meditation, examination of the conscience, spiritual reading, and the like.[4] Habert evidently attaches little importance to punitive satisfaction, and directs almost his whole attention to that which is adapted to improve the penitent. Medicinal penance, he says, looks to the causes of sin, punitive to its effects; medicinal penance is a remedy to cure the penitent and an antidote against his relapse. His allusions to vindictive satisfaction are perfunctory, to keep within the

[1] C. Trident. Sess. XIV. De Pœnit. cap. 8.—"Habeant autem præ oculis ut satisfactio quam imponunt non sit tantum ad novæ vitæ custodiam et infirmitatis medicamentum sed etiam ad præteritorum peccatorum vindictam et castigationem."

[2] Catch. Trident. De Pœnit. cap. 12, 13.

[3] Viva Cursus Theol. Moral. P. II. Q. vi. Art. 1.—"Cum autem sacramentum pœnitentiæ debeat esse medicina, attendenda est fragilitas pœnitentis et illæ pœnitentiæ injungi debeant quæ deserviant ad curationem; cæteroque facile accidet ut, imposita gravi pœnitentia, pœnitens vel illam non impleat vel confessionem deinceps fugiat, vel confessarios quærat ineptos qui eum curare nesciunt."

[4] Antoine Theol. Moral. Tract. de Pœnit. Art. III. Q. 1.

doctrine of the Church, and he evidently feels that the function of penance is much more to ameliorate the moral condition of the penitent than to save him from purgatory.[1] In fact, in the modern practice of the Church, purgatory is taken care of by indulgences, and it is significant that all schools, except the most relaxed, teach that a plenary indulgence does not release from the performance of medicinal penance. It is, therefore, not surprising that the recent manuals for the guidance of confessors lay much more stress on their functions in leading their penitents to a Christian life than on the minute balancing of penance with sin in applying the power of the keys, regardless of the fact that they are thus oblivious of the very meaning of the word satisfaction. There is in all this an unacknowledged admission of the failure of the sacramental system so laboriously constructed by the schoolmen, except in so far as it lends to the counsels of the confessor an awful authority that no mere human ordinance could confer. Wisely used in this direction there can be no doubt that this authority in the confessional can be productive of benefit to the class of minds receptive of its influence. This however only starts the question as to how the men are to be found who are capable of using it wisely.

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[1] Habert Praxis Sacr. Pœnit. Tract. v. Reg. 3.

Reuter (Neoconfessarius instructus n. 16) gives some examples of medicinal penance which proved effective. A vain girl who had been proof against various expedients was brought to amendment by being made to say every morning while washing her hands "Some day this flesh will be food for worms." A young man abandoned to carnal indulgence was corrected on being required each night on going to bed to say "Would you be willing for the whole world to lie on this bed motionless for thirty years, even if it were strewn with roses?" Another was told to lie without moving for a night; the next day he reported to the confessor that he had found it impossible, and was asked "How then will you lie for eternity in hell?" In all this it is worthy of remark how completely the good fathers content themselves with arousing the simplest servile attrition, and how the ancient requisite of love of God is lost to sight.

For other similar medicinal penances see La Croix Theol. Moral. Lib. VI. P. ii. n. 1267.

CHAPTER XX.

CLASSIFICATION OF SINS.

IT can readily be comprehended from the foregoing chapters what a task, in theory at least, is set before the conscientious priest in the confessional. Questions of every kind come before him, on the rightful decision of which, he is told, depends the salvation of immortal souls. Every act in human life must be right or wrong, but its being the one or the other may depend on a multitude of intervening impulses or circumstances, modifying, extenuating or aggravating in a manner to be estimated only by the Great Searcher of Hearts. Yet the system which the Church built upon the exercise of its power of the keys required every priest who was intrusted with the function of absolution to decide upon all these questions, to weigh and measure the infinite varieties of motive and intention, knowledge and ignorance, act and purpose, and to define the exact degree of culpability thence arising. That this is a duty beyond human capacity to perform aright is self-evident, but it is a duty not to be evaded in a body claiming to be a divine institution, gifted with infallibility in the fulfilment of the object for which it was created—the rightful guidance of the souls of men. In grasping at power it has incurred responsibility, and that responsibility it must discharge, however imperfect may be the result.

We have seen the attempt made to evade the difficulty of the situation by vague declamations as to the key of knowledge bestowed on the priest in ordination and the inspiration guiding him in the discharge of his duties. In practice all this was admitted to be naught and that ignorant priests were merely the blind leading the blind. It is true that Albertus Magnus asserts that the confessor need only have a general knowledge of the distinction between mortal and venial sins, but he adds that those unable to do this commit a mortal sin in hearing confessions, while those who appoint them are even more guilty, and remain so as long as they permit them to perform their functions. Others placed the qualifications of the confes-

sor still lower, and questioned whether it was necessary for him to be able to distinguish between mortals and venials, as there are many of these on which the most learned are in doubt. The better opinion however, rated the requirements of the confessor much higher. In the extended jurisdiction acquired by the confessional he must be ready to answer the most unexpected questions—whether a war is just or unjust, whether a tax is legal or illegal, whether a contract is licit or illicit, whether restitution or compensation arises out of a complicated transaction—for on his decision will depend absolution and admission to the sacraments.[1] The dense cloud of uncertainty which hangs around all this is manifest in the advice of Angiolo da Chivasso, who says that the first requisite of a confessor is to be able to distinguish between mortals and venials, but he must be very careful not to assert positively that of which he is not certain, especially when the doctors differ. To the confessor doubt is the best of all things, next to life; unless he is certain that he has read a decision bearing on the case, he ought always to doubt and to consult experts or to study the matter anew and put off the penitent, or, if he cannot do this, let him absolve the penitent as far as he can and tell him to consult experienced men.[2] The science of the confessional embraces the ethics of all human action, and the dull and untrained brain of the ordinary priest was more likely to be confused than enlightened by the refined dialectics and endless refinements of those whose who sought to give him guidance. St. Antonino admits that it is almost impossible to determine the depth of ignorance which renders a priest unfit to confer absolution,[3] but while it was easy to tell him to consult experts, yet when perhaps five-sixths of the population lived in rural parishes where access to experts was difficult, we can judge how impossible was the task which the Church imposed upon its priests and the dangers into which it betrayed the faithful. Moreover, the experts themselves were at fault in a large portion of the intricate cases created by the interaction of the moral and the canon law.

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[1] S. Antonini Summæ P. III. Tit. xvii. cap. 16, §§ 1, 2.—Bart. de Chaimis Interrogat. fol. 8–9.

[2] Summa Angelica s. v. *Confessio* IV. §§ 3, 4.—Caietani Summula s. v. *Confessori necessaria.*

Angiolo, however (s. v. *Clericus* § 4), makes an exception in favor of the Regulars—"sufficit monaco si bonus licet illiteratus."

[3] S. Antonini de Audiend. Confess. fol. 11*a*.

Some general principles evidently were indispensable—some effort to reduce into system the vast aggregate of human aberrations, to classify them in some fashion that would simplify the problem and afford a clue, however uncertain, to the mazes of the labyrinth. Even in the simpler discipline of the early Church this necessity had been recognized, and we have seen (I. p. 16) how three sins were selected as requiring penance, and how St. Gregory of Nyssa endeavored to enlarge the list. The Montanist rigor of Tertullian, on the strength of the text, I. John, v. 16, divided sins into remissible and irremissible.[1] Cyprian speaks of *gravissima delicta*, committed against God, and of lesser sins, presumably against man, yet grave enough, for the Church so far did not trouble itself with trivial offences, and these required penance and reconciliation.[2] Origen divides sins into those *ad mortem* and *ad damnum*.[3] St. Augustin seems to be the first to take note of venial sins, and among his various classifications is one which describes the grave offences of homicide, idolatry and unchastity, entailing excommunication, those of medium degree requiring reproof, and the lighter daily ones inseparable from human infirmity and removable by the daily recital of the Lord's Prayer.[4] When we reach Gregory the Great we find an enumeration of the seven principal vices, very much the same as that which the Church has preserved to the present day, though he does not designate them as mortal sins—vain-glory, envy, wrath, sadness, avarice, gluttony and lust.[5] There was nothing as yet positive about this, for at nearly the same time St. Eutropius makes the number eight, adding pride and sloth, and omitting envy.[6] The number of eight continued long in use, though the list varied. An *Ordo* of the ninth century, for instance, drops vain-glory and adds drunkenness.[7] Thus eight capital vices will be found specified by many authorities, until late in the fourteenth century,[8] while even in the fifteenth Dr. Weigel counts only

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[1] Tertull. de Pudicit. cap. ii.
[2] Cypriani Epist. XVII. (Ed. Oxon.).
[3] Origenis in Exod. Homil. x. n. 3.
[4] S. Augustin. de Fide et Operibus. cap. 19, 26.
[5] S. Gregor. PP. I. Moral. Lib. XXXI. cap. 45.
[6] S. Eutropius de Octo Vitiis (Migne, LXXX. 10).
[7] Martene de Antiq. Eccles. Ritibus Lib. I. cap. vi. Art. 7, Ordo 10.
[8] Alcuini de Virtutibus et Vitiis, cap. XXVII. sqq.—Ecberti Pœnit. cap. 1. (Wasserschleben, p. 233).—Ordo ad dandam (Garofali, p. 23).—Ps. Alcuini de Divinis Officiis, cap. XIII.—Ordo ad dandam (Pez, Thesaur. Anecd. II. II.

six.[1] The mystic number of seven, however, corresponding with the seven sacraments, the seven gifts of the Holy Ghost, etc., prevailed and was finally adopted. For the benefit of ignorant confessors it was memorized by the word *Saligia*, composed of the initials of *superbia*, *avaritia*, *luxuria*, *ira*, *gula*, *invidia* and *acedia*, and that its meaning might not be forgotten it was embalmed in the verse *Ut tibi sit vita semper saligia vita.*[2]

Yet originally these were regarded as vices or imperfections rather than as mortal sins. Wrath might lead to homicide or it might be a harmless ebullition of no special significance; gluttony and sloth are defects, but to come properly within the theological definition of mortal sins they require an excess of an unusual character. The theologians however ingeniously expanded each of the seven until together they were made to cover all the wickedness that man can commit. In the earlier period the conception of a mortal sin was very different. St. Augustin reserves penance for adultery and similar grievous offences; the lighter ones, he tells us, can be removed by daily prayer.[3] A sermon, attributed variously to St. Augustin and to St. Cæsarius of Arles, dwells upon the necessity of repentance for the *minuta peccata*, of which the accumulation during a life-time may outweigh the mortal ones, and the preacher proceeds to enumerate these *minuta peccata* as oaths, perjury, curses, detraction, idle talk, hatred, wrath, envy, concupiscence, gluttony, sloth, filthy thoughts, lust of the eye, sensual pleasures of the ear, exasperation of the poor, etc., and these so-called little sins are to be redeemed by forgiveness of injuries and frequent almsgiving.[4] The same con-

615–20).—Burchardi Decr. Lib. XIX. cap. 97.—Quadripartitus, Ed Liebermann, p. 78.—Pœnit. Roman. Tit. IX. cap. 16 (Ant. Augustini Canones, p. 81).—Passavanti, Lo Specchio della vera Penitenza Dist. V. cap. IV. The latter subsequently says (cap. vii.) that some authorities counted only seven.

[1] Weigel Claviculæ Indulgent. cap. iv.

[2] Manip. Curator. P. II. Tract. ii. cap. 9.—S. Antonini Summæ P. III. Tit. xvii. cap. 17, § 3.

[3] S. Augustin. Serm. ad Catechum. de Symbolo, cap. 7. In another passage, however (Serm. CCCLI. n. 5), he is much more comprehensive in his enumeration of grave sins, while the lighter ones are to be remitted by daily repentance. The subject evidently was one on which conceptions as yet were exceedingly vague.

[4] S. Augustin. Serm. Append. Serm. CCLVI. n. 4; CCLVII. n. 2 (Migne, XXXIX. 2219–20).

ception is to be found in Bede, when he says that the only sins to be confessed to priests are heresy, infidelity and Judaism, for God himself corrects and cures our other vices within us.[1]

When the schoolmen undertook in the twelfth century the systemization of theology and its application to sacerdotalism it was inevitable that these crude conceptions should be remoulded and that human sins should be subjected to the searching analysis employed in all other quarters. In constructing a new theory of the relations between God and man it became necessary to define with some approach to accuracy the tremendous difference now established between the sins which of themselves plunged the soul into the eternal torments of hell, and those which only delayed more or less its admission into the company of the saints. The distinction was fundamental which could produce so infinite a divergence of destiny, and it behoved all men to know by which standard their thoughts, words and deeds were to be judged. Gregory the Great, in his crude speculations as to the possibility of purgatorial fires, at a time when as yet the Day of Judgment was regarded as the period determining the fate of the soul, had suggested as credible that there might be sins so trifling, such as idle talk, immoderate laughter, the sins inseparable from family cares and the like, which could be cleansed by fiery purgation prior to that awful day.[2] Since then the belief in purgatory had grown to be part of Catholic dogma; it was not a place for the unrepentant sinner, but, as we have seen, it served to furnish the *pœna* for the mortal sins of which the *culpa* was remitted in the sacrament—a *pœna* which could be averted by penance. It also, on the authority of this passage of Gregory, supplied the means of purifying the soul from unremitted venial sins—or, in the later conception, of inflicting a penalty proportional to their demerit. The petty character of the offences suggested by Gregory served as a measure by which to differentiate mortal and venial sins. Thus when Gratian came to divide sins into those which, unrepented and unatoned, condemn the soul to hell, he followed a sermon attributed to St. Augustin which shows how much more sternly the sinner was judged than in the earlier centuries. Sacrilege, homicide, adultery, unchastity, false witness, theft, rapine, pride, envy, avarice, pro-

[1] Bedæ Lib. v. in Lucam XVII. 14.
[2] Gregor. PP. I. Dial. IV. 39 (Gratian. Cap. 4 Dist. XXV.).

longed anger, continued drunkenness entail eternal fire unless redeemed by amendment, long penance and liberal almsgiving. The temporary fires of purgatory suffice for the *minuta peccata*, and of these, though known to all men, he mentions some—eating or drinking more than necessary, undue silence or talk, exasperating beggars who are importunate, eating when others fast, rising too late for church service, connubial intercourse except to procure offspring, tardiness in visiting the sick or prisoners, neglecting to make peace between enemies, irritating unduly a wife or neighbor or child or servant, perjury in not fulfilling an incautious oath, speaking ill, etc.[1] Peter Lombard, about the same time, essayed a more philosophic classification of sins into those of infirmity, of ignorance and of malice, and this was probably current in the Paris schools, as it is adopted by Richard of St. Victor.[2]

The more practical division of sins into mortal and venial became a necessity with the disappearance of the Penitentials, and the conferring of discretion on the priest, who, armed with the power of the keys, administered a sacrament essential to salvation. As merely a philosophical amusement such speculations have their interest, but to the Church and the faithful this was not mere philosophical dilettanteism, but a serious work of the highest import, to be framed with exactness for the guidance of ignorant and untrained priests. That it was a failure goes without saying, for the task was impossible. It may be argued that this is only what is attempted in every criminal code, but the criminal law is admitted to be a mere device, necessary for the protection of society, yet at best a most imperfect instrument. It makes no attempt to fathom the recesses of the offender's soul and determine the impalpable line over which a venial sin passes to become mortal. It seeks to attain only the practical,

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[1] Gratian. post cap. 3 Dist. XXV. (Ps. August. Serm. XLI. de Sanctis; Ed. Benedict. Append. Serm. CIV.).

[2] P. Lombard Sententt. Lib. II. Dist. xliii. § 4.—Rich. a S. Victore de Statu interioris Hominis, Cap. 3.

Peter Lombard as yet had apparently not accepted the Gregorian suggestion of purgatory. He seems to know nothing beyond the theories of St. Augustin that between death and the Day of Judgment souls are stowed away in receptacles, where they have rest or pain according to their final destiny. He thinks it possible, however, that those moderately good may pass through fire and be saved through the intercession of the heavenly Church.—Sententt. Lib. IV. Dist. xlv. §§ 1, 5.

and yet the experienced legist will admit that after the ablest minds have been laboring at it for thousands of years, and after innumerable modifications, it is still only a makeshift on which no two nations can be found to agree, and which never can rise above the limitations and imperfections of human nature. The Church undertook a far more difficult task, for in its sphere of the *forum internum* external acts are only the indications of moods and feelings, of impulses and intentions, and it was required to decide not what was the judgment of man concerning them, but what was the judgment of God. It is infallible, moreover, wielding supernatural power by divine delegation, and it cannot admit the existence of imperfection in the rules which it promulgates or tolerates for the guidance of its ministers when acting as the representatives of God. If it is a divine institution those rules must be perfect, immutable, clearly intelligible and capable of easy application.

Of these rules the most elementary is that which differentiates venial from mortal sin, yet until the twelfth century was far advanced the Church had made no definite and comprehensive attempt to effect such a differentiation. The so-called seven or eight mortal sins were a mere enumeration of more or less evil tendencies, the manifestations of which in action might be venial or not, according to their degree or their results.[1] The Penitentials drew no line of demarcation, but, like other criminal codes, merely marked the sense of the comparative guilt of actual offences, by penances ranging from two or three days to fifteen or twenty years. Even after the schoolmen had established the distinction, it still remained for a while only a question of the extent of penalty to be inflicted. Alain de Lille tells us that both mortals and venials are to be confessed, when the priest is to consider to which class a sin belongs and proportion the penance accordingly.[2] There were still theologians who held that if a man died with venials unrepented and with the disposition to commit them, they changed to mortals after death and condemned the soul to hell.[3] When the attempt was

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[1] Thus Father Habert states (Praxis Sacr. Pœnit. Tract. VI. cap. 1, n. 2) that all the seven mortal sins can be venial save lust, which is always mortal.

[2] Alani de Insulis Lib. Pœnit. (Migne, CCX. 288). "Considerandum est quoque utrum peccatum sit de genere venialium vel mortalium, quia secundum hoc major vel minor satisfactio injungenda est."

[3] P. Pictaviens. Sentt. Lib. III. cap. 10. Even in the seventeenth century

seriously made to estimate the degrees of sin in a manner to enable the confessor to perform the duty of judging between leprosy and leprosy, the impracticability of the task became apparent in the intricate reasoning employed and the balancing of arguments. Origen had recognized this as early as the third century,[1] and in the twelfth Peter of Poitiers, after exhausting the discussion of a doubtful point, despairingly exclaims that only God can determine which is the graver sin.[2] The matter, moreover, was immeasurably complicated by the factor of the belief of the actor, for as early as the time of St. Bernard it was held that whatever a man thought to be a sin, even if it were good, was as great a sin as he thought it to be.[3] How impossible this rendered all practical application of classification is seen in William of Paris, who, after telling us that all venials taken together are infinitely less than a mortal, adds that if a man believes almsgiving to be a sin, he sins in giving alms; if he believes that lifting a straw from the ground will be a sin as great as that of Lucifer or Adam or Judas or of the crucifiers of Christ, he will, in lifting the straw, sin as much as Lucifer or Adam or Judas.[4] The impossibility thus of applying general rules is recognized in the advice to confessors of S. Ramon de Peñafort, repeated by subsequent authorities, not to be too prompt in pronouncing a sin to be mortal unless there is a written decision concerning it, but to tell the penitent that it is a sin and induce him to perform penance for it.[5] Passavanti spends pages in the vain attempt to differentiate mortals from venials, and winds up with the admission that the matter is difficult, not only for the unlearned layman but for the learned ecclesiastic.[6] Thomas of Walden vainly endeavors to answer

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Martin van der Beek considered it necessary to refute this opinion as too rigorous.—M. Becani de Sacramentis Tract. II. P. iii. cap. 32, Q. 9, 10.

[1] Origenis in Exod. Homil. x. n. 3. "Quæ autem sint species peccatorum ad mortem, quæ vero non ad mortem sed ad damnum non puto facile a quoquam hominum posse discerni. Scriptum namque est, *Delicta quis intelligit?*"

[2] P. Pictaviens. Sentt. Lib. III. cap. 12.—"Solus ergo Deus qui est equilibrator ponderum culparum et pœnarum scit uter talium peccet majus."

[3] S. Bernardi Lib. de Præcept. et Dispensat. cap. xiv.

[4] Guillel. Paris. Opera de Fide. fol. 206, col. 4, fol. 215 col. 1, 3 (Nurnbergæ 1496).

[5] Astesani Summæ Lib. v. Tit. xxxi. Q. 2.—Epist. Synod. Guillel. Episc. Cadurcens. circa 1325, cap. 9 (Martene Thesaur. IV. 690).

[6] Passavanti, Lo Specchio della vera Pœnitenza, Dist. v. cap. 7.

Wickliffe's challenge to the confessors to distinguish mortals from venials; nothing, he says, is clearer than the difference between them, nothing more obscure than the line of demarcation.[1] St. Antonino makes the same admission, for though he holds, of course, that the difference between mortals and venials is infinite, yet he tells the confessor that it is not necessary for him to determine what is one or the other, for some are certain and some are doubtful.[2] Geiler von Keysersberg reiterates the admission; rules for the differentiation can be laid down, but they are often at fault and no one can be expected to decide all cases correctly.[3] Prierias is equally candid; the confessor is only required to know what everybody knows to be mortal sins; there is scarce in the world a single confessor able to distinguish in all cases; it suffices for him to impose penance to prevent relapse and to absolve as far as his power extends.[4] The difficulty did not diminish with the further labors of the theologians. In the seventeenth century we are told that the confession is not rendered invalid by the confessor mistaking venials for mortals and mortals for venials; the distinction is too difficult, and he is not obliged to undertake it in the confessional.[5]

While the practical writers thus had no hesitation in admitting the impossibility of applying the distinction in the confessional, for which alone it was framed, the schoolmen had no difficulty in defining it to their satisfaction—a fair illustration of the ease with which they constructed, from their innate conceptions, a system of the universe of which they knew nothing, very beautiful and symmetrical according to the aspirations of the age, but which broke down completely as a basis for human action. Alexander Hales tried his hand at it, reaching the prescribed conclusion that the difference between mortals and venials is infinite, for venials do not avert man from God; the distinction consists in the comparative love of God; if you love the creature more than the Creator it is mortal, if less it is venial; and after prolonged argument he proves

[1] Thomæ Waldens. de Sacramentis cap. CLVI. n. 7.

[2] S. Antonini Summæ P. III. Tit. xiv. cap. 19, §§ 8, 14.

[3] Jo. Keysersperg. Naviculæ Penitentiæ fol. viii. col. 1 (Aug. Vindel. 1511).

[4] Summa Sylvestrina s. v. *Confessor* III. §§ 2, 11, 13.

[5] Berteau Director Confessar. P. I. Tract. ii. cap. 1.—Cf. Gobat Alphab. Confessar. n. 325.

that no number of venials taken together will constitute a mortal.[1] Yet when he undertakes to decide whether garrulity (*multiloquium*) is mortal or venial, he has to differentiate it from verbosity (*verbositas* and loquacity (*linguositas*), and finally decides that it is venial, though it may sometimes be mortal—a fair example of the labyrinth in which the schoolmen involved themselves when they sought to apply their theology to practical ethics.[2] It is true that St. Bonaventura proved that venials may become mortals, in spite of the infinite difference between them,[3] but Aquinas denied this, though he admitted that an act venial in itself might undergo a change rendering it mortal. Like St. Bernard and William of Paris, he ascribed more influence to the intention of the actor than to the act itself, and, like Alexander Hales, his distinction is that mortal sin is a turning from God; anything less than this is venial; the two are the same in species though differing infinitely in their consequences, and all the venials in the world are not equal to a single mortal.[4] From this Domingo Soto deduces that venials may become mortals through evil intention, while the best intention cannot convert a mortal into a venial,[5] though, as we shall see hereafter, recent theology has discovered that it can. Moreover, the older theologians held that venials, when habitually committed, become mortal, and this, again, is denied by the moderns.[6] Thomas Bradwardine cut

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[1] Alex. de Ales Summæ P. IV. Q. x. Membr. viii. Art. 1, § 1; Q. xv. Membr. iii. Art. 1, § 1; Art. 3, § 1.

[2] Ibid. P. II. Q. CXXIV. See also the elaborate discussions in which John of Freiburg endeavors to point out when gulosity, verbosity, fear, deceit, hypocrisy, boasting, adulation, vain-glory, etc., are mortal or venial.—Summæ Confessor. Lib. III. Tit. xxxiv. Q. 199, 253, 254, 256, 258–62, 268–9, etc.; also the similar effort by Bart. de Chaimis, Interrogat. fol. 41–9, 61–3.

[3] S. Bonavent. in IV. Sentt. Dist. XVI. P. ii. Art. 3, Q. 1.

[4] S. Th. Aquinat. Summæ I. II. Q. xx. Art. 2; Q. lxxii. Art. 5; Q. lxxx. Artt. 2, 4; Summæ contra Gentiles Lib. III. cap. cxliv.—Cf. Estii in IV. Sentt. Dist. XVI. § 3.

William Durand (Ration. Divin. Offic. Lib. IV. cap. xii. n. 3) tries a different classification into nine varieties—"Est enim peccatum originale, veniale et mortale. Item peccatum cogitationis, locutionis et perpetrationis. Item peccatum fragilitatis, simplicitatis et malignitatis."

[5] Dom. Soto de Justitia et Jure Lib. v. Q. ix. Art. 2 ad 3.

[6] S. Augustin. Serm. CCCLI. n. 5.—Gratian. cap. 81 § 3 Caus. XXXIII. Q. iii. Dist. 1.—S. Antonini Summæ P. II. Tit. ix. cap. 3 § 3.—Summa Angelica s. v. *Inobedientia*.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. 5, n. 2.

the knot in a simpler fashion, when, in the impossible attempt to reconcile predestination with morals, he defined venials to be the sins of the elect and mortals the sins of the reprobate.[1]

Thus it went on, one doctor after another imagining that he was defining and differentiating when he was only talking in a circle about causes and consequences, and this has continued to the present time.[2] When it comes to drawing any practical deductions for the conduct of the sinner or of the confessor the matter becomes so infinitely tangled with questions of intention and belief and degree that the moralist can only throw up his hands in despair and, like Duns Scotus, say that every man is bound to avoid mortal sin, but is not required to know explicitly in what cases pride and gluttony are mortal, for many experts do not know: or, like John Gerson, exclaim that God alone can decide; man can only judge of externals unless he has a revelation from God.[3] It was easy to say that whatever is contrary to the mandates of the Decalogue is mortal, but then the Decalogue is expounded so as to cover every imaginable aberration, great or small, and the state of mind of the sinner may at any time convert a venial to a mortal, or vice versa,[4] which is peculiarly confusing, since we may well believe Gerson's assertion that the penitent very often cannot tell whether he has done certain things, or how he did them, or with what intention, and Juan Sanchez tells us that penitents often accuse themselves of sins which are in reality virtues.[5]

How perfectly nebulous is the boundary which thus has such awful significance can be estimated by an instance or two. Herzig tells us that it is a mortal sin to read the Bible in the vernacular without a license, except in places where intercourse with heretics has established a different custom.[6] A man labors on a feast-day, know-

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[1] D'Argentré Collect. judic. de novis Erroribus I. I. 341.

[2] Caietani Summula s. v. *Peccatum.*—Concil. Roman. ann. 1725, p. 434.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 51.

[3] Jo. Scoti in III. Sentt. Dist. XXV. Q. 1.—Jo. Gersonis Regulæ Morales, XXV. C.—"Solus quippe Deus potest de talibus judicare; alii autem nonnisi de ejus mandato et revelatione, sed tantum de exterioribus."

[4] P. de Palude in IV. Sentt. Dist. XVI. Q. 1, Art. 3.—Summa Pisanella s. v. *Peccatum* II.; III. § 1.—Jo. Gersonis *loc. cit.* G.—Savonarolæ Confessionale fol. 20–1.

[5] Jo. Gersonis *loc. cit.*—Jo. Sanchez Selecta de Sacramentis Disp. II.

[6] Herzig Manuale Confessarii, P. II. n. 115 (August. Vindel. 1757). In 1713,

ing it to be a sin, but without reflecting whether it is venial or mortal; it is a disputed point among the doctors whether he sins mortally or venially, and the determination may rest upon whether he is one who habitually abstains from grave offences; but if he had resolved to labor whether it is mortal or not, he sins mortally, and also if he had intentionally abstained from ascertaining in order that he might not be prevented from laboring.[1] A shopkeeper whose wares are neglected for those of a competitor may grieve without sin over his loss of trade, but if envy of his rival's success enters into his feelings he sins mortally.[2]

A natural result of these impalpable distinctions is that terror of the confessional, the scrupulous penitent, whose conscience is never at rest and is torn by vain exaggerations of his peccadilloes. It is easy to define that a scruple is an opinion based on an insufficient foundation; but such a test is impracticable for the sufferer, and the books are full of instructions as to how he is to be disabused or forced to disregard his fears. One recommendation is that he be told never to regard a sin as mortal unless he is prepared to take an oath that it is so, which would seem to be a method of increasing rather than diminishing his anxieties, and the confessor is instructed not to allow him to confesss any sins save those that he knows to be such.[3]

Though venials and mortals are so essentially different in their nature and effects, they pass into each other by degrees so imperceptible that it became necessary to evolve the doctrine of *parvitas materiæ*—the trifling character of an offence which renders it venial when it would otherwise be mortal. Such a distinction, in fact, is necessary, even though logically it upsets the whole system, for it runs counter to the theory of intention and belief, but it only introduces a new source of trouble, that of defining the exact degree of *parvitas* which makes the difference. Thus theft is mortal, but the

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Clement XI., in the bull *Unigenitus* (Prop. 79–86), condemned the use of the Bible by the laity as a Jansenist error. In 1757, however, the Congregation of the Index permitted the use of vernacular versions if approved by the Holy See and accompanied with proper commentaries (Index Bened. PP. XIV., p. vi.).

[1] Voit Theol. Moral. I. 13–14.

[2] Gury Casus Conscient. I. 169.

[3] Th. Sanchez in Præcepta Decalogi Lib. I. cap. X. n. 82–4 —Voit Theol. Moral. I. 130–1.

object stolen may be so trivial as to render it venial,[1] and the line of demarcation has been the subject of endless debate, fruitless because no one can put forward more than a personal opinion, and no one can know the will of God. Azpilcueta and Córdoba, for instance, think that one *real* suffices to render theft mortal, but Tomás Sanchez says that some doctors hold the theft of a hundred ducats from a very rich man to be venial. Caramuel tells us that a son can steal from his father twice as much as a stranger can without incurring mortal sin, while servants and friends are equidistant between these extremes. Concina states that it is commonly agreed that the amount depends on the condition of the loser, and that four classes, from kings to beggars, are commonly reckoned with their several valuations, but he thinks the best standard to be the amount that the person robbed spends habitually for a day's food. Then there is a subsidiary question whether it is the same with the theft of eatables, for the owner is apt to think the purloining of coin more serious than that of provisions; moreover, if you steal one *real* of food and consume it, intending to steal no more, but change your mind and steal another *real's* worth, do you commit two venials or one mortal?[2] This latter point led to the celebrated question whether a series of petty thefts might be committed, amounting in the aggregate to a considerable sum, without incurring mortal sin and the duty of restitution: the affirmative was largely taught, and in 1679 Innocent XI. found himself obliged to condemn the proposition.[3] Such are the insoluble puzzles which the confessor is bound to unravel and which become only the more hopelessly confused the more the moralists elucidate them.

In addition to this the theory of *parvitas* became still further complicated by the discovery that some sins are so heinous that no minuteness

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[1] This is modern doctrine. Aquinas says (Summæ Sec. Sec. Q. LXVI. Art. vi. ad 3) that though there may be excuse for stealing a thing of minimum value, if there is *animus furandi* it is mortal. So Astesanus (Summæ Lib. I. Tit. xxxiii. Art. 3, Q. 2) and the Summa Pisanella (s. v. *Furtum* § 3) say that the intention of the thief, and not the object stolen, is to be considered.

[2] Gobat Alphab. Confessar. n. 675–76.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. iv. n. 7, 18.—Caramuelis Theol. Fundam. n. 1767.—Clericati de Pœnit. Decis. XLIV. n. 10.—Concina Theol. Christ. contr. Lib. VI. Diss. 1, cap. 3, §§ 3–5.

[3] Innoc. PP. XI. Decr. 2 Mart. 1679, Prop. 38.

of the offence renders them venial. Unfortunately the doctors are not wholly in accord as to what these are, though for the most part they agree that simony, heresy, usury, and blasphemy belong to this category, save that in modern times usury is omitted from the list.[1] On the subject of unchastity, however, there has been a difference of opinion. Aquinas held that lust, in however slight a degree, is mortal, while the Summa Pisanella tells us that a mere sensual feeling, without consent of the reason, is venial.[2] Caietano is more rigid; every impulse of the kind, except between the married, is mortal, though admiration of a pretty woman, if without lust, is not so.[3] Alphonso de Leone, on the other hand, holds that there may be delectation in these matters without mortal sin, and Cabrino does not include lust among the exceptions to *parvitas materiæ*.[4] Yet, when some of the Jesuits taught this doctrine, Aquaviva issued a decree, April 24, 1612, in which he forbade it, under the heaviest penalties, on account of its danger and the impossibility of drawing distinctions in so perilous a matter.[5] Some theologians assert that to feel pleasure at the touch of a woman's hand because it is soft and warm is no sin, though they admit that if there is the slightest admixture of sexual feeling it is mortal, while others assume that this distinction is impossible and that the pleasure is always sinful.[6] Necessarily this question of *parvitas* became exceedingly complicated under the exhaustive treatment of the moralists, and Tomás Sanchez, who discusses it at

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[1] Alph. de Leone de Offic. et Potest. Confessar. Recoll. VII. n. 32–45.—Cabrini Elucidar. Casuum Reservat. P. I. Resol. vi.—Wigandt Tribunal. Confessar. Tract. IV. Exam. ii. n. 74.—Layman Theol. Moral. Lib. I. Tract. iii. cap. 5.—Voit Theol. Moral. I. 305.—Martinet Theol. Moral. Lib. I. Art. XV. § 5.

[2] S. Th. Aquin. Summæ Sec. Sec. Q. CLIV. Art. iv.—Summa Pisanella s. v. *Peccatum* II.

[3] Caietani Summula s. v. *Impudicitia*.

[4] Alph. de Leone *op. cit.* Recoll. XIII. n. 10–34.—Cabrinus *ubi sup.*

[5] Caramuelis Theol. Fundam. n. 1740. He adds, however (n. 1762–66), that the Jesuits soon eluded this decree by drawing distinctions between *luxuria* and *res venerea*, which the theologians had always treated as synonymous.

[6] Rosell Praxis Deponendi Conscientiam cap. XXVII. (Bruxellæ, 1661) —Herzig Manuale Confessarii, P. I. n. 74.—S. Alph. de Ligorio Theol. Moral. Lib. III. n. 416.—Cf. Alex. PP. VII. Decr. 1666, Prop. 40 cum Comment. Dom. Viva.

For the endless and complicated discussion of this point by the theologians see Caramuel's *Theol. Fundam.* n. 1708–66, and the *Vindiciæ Alphonsianæ*, pp. 283 sqq.

great length in the endeavor to establish rules for its application, is constrained to admit that no rules are possible and that it must be left to the judgment of a prudent man.[1]

Yet the distinction between mortals and venials does not depend wholly upon the acts or even upon the internal operation of the sinner. Extrinsic circumstances, over which he has no control, may remove a sin from one class to the other. Thus Pierre de la Palu says that the sale of such objects as dice or garlands is mortal or venial according to the uses to which they may be put. St. Antonino tells us that, if a man through mere loquacity reveals the hidden fault of another, it is venial unless evil results from the hearers spreading it, when it becomes mortal. Chiericato asserts that *subsannatio*, or making a derisive sign at another, becomes mortal if it causes much annoyance to the person at whom it is directed. It is a common remark of the moralists that, although stealing a needle from a tailor is venial on account of *parvitas*, still if the needle happens to be necessary to enable the owner to perform his work, the sin becomes mortal.[2] Benedict XIV. defines that if, in consequence of a quarrel, a woman refuses to return the salutation of a neighbor, the sin is venial or mortal according to the scandal to which it gives rise; in fact the principle is generally admitted and Father de Charmes speaks of venial sins which may become mortal through some adventitious circumstance, such as scandal,[3] but the theologians do not instruct us how to weigh and measure the degree of scandal or annoyance which thus makes the difference between perdition and salvation, nor how all this is to be reconciled with the accepted doctrine that a venial cannot become a mortal. On the other hand, although servile labor on a feast-day is a mortal sin, a barber who knows that he will lose his custom if he refuses to shave on such a day, can work with a clear conscience, because ecclesiastical laws are not obligatory when they inflict a certain amount of hardship.[4] In fact, the difference

[1] Th. Sanchez in Præcepta Decalogi Lib. I. cap. iv. n. 2.

[2] P. de Palude in IV. Sentt. Dist. XVI. Q. ii. Art. 4.—S. Antonini Confessionale fol. 30*b*.—Clericati de Pœnit. Decis. XXVII. n. 27.—Piselli Theol. Moral Summæ P. I. Tract. xix. cap. 2.

[3] Bened. PP. XIV. Casus Conscient. Junii 1746, cas. 1.—Th. ex Charmes Theol. Univ. Diss. v. cap. vi. Q. 4.—Gury Comp. Theol. Moral. I. 153.

[4] Habert Theol. Moral. De Conscientia II. Q. 3.

between mortals and venials is so slight that the word of a priest or prelate can convert one into the other. We have seen (p. 187) that a confessor can impose a penance to be performed under the obligation of venial or mortal sin at his pleasure, and when St. Toribio of Lima, in 1583, desired to prevent priests from smoking or taking snuff before mass, he prohibited it under pain of eternal death—*sub reatu mortis œternœ.*[1]

Ignorance is another important factor which modifies the distinction between mortals and venials, and is closely allied to the questions of belief and intention. Manifestly a man who sins in ignorance of the character of his act is not to be judged as harshly as he who sins in knowledge. Christ himself tells us (Luke, XII. 47–8) that ignorance may be pleaded in mitigation of punishment, but that it does not wholly excuse, and the moral sense is rarely so undeveloped or so unable to distinguish between right and wrong as to relieve a man from responsibility for his acts. In the early Church no such excuse was admitted. St. Augustin refuses to listen to the plea of either wilful or unconscious ignorance with a rigidity which renders doubly remarkable the enormous use made of it in the modern systems of reflex probabilism.[2] His view was evidently that of current

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[1] C. Liman. Provin. I. ann. 1583, Act. III. cap. 84. As the proceedings of the council were approved and confirmed by the Congregation of the Council of Trent in 1588, the Holy See saw nothing objectionable in this. Heroldus remarks on this passage (Lima Limata, p. 29) "Sed gravitas comminationis reatus mortis æternæ in hoc decreto intentatæ proculdubio presbyteris peccati mortalis vinculum imponit."

Yet this was not the older belief. Gerson (De Vita spirit. Animæ Lect. IV. Coroll. 4) describes as an abuse "præsertim ecclesiastici illi qui quicquid ordinant, quicquid monent, quicquid præcipiunt, volunt pro divinis legibus haberi, par æquale quoque robur habere, per interminationem damnationis æternæ." And Voit, in the last century, tells us (Theol. Moral. I. 186) that a superior cannot impose on his subjects anything of minor importance *sub mortali.*

[2] "Ac per hoc inexcusabilis est omnis peccator vel reatu originis vel additamento etiam propriæ voluntatis; sive qui novit sive qui ignorat, sive qui judicat sive qui non judicat, quia et ipsa ignorantia in eis qui intelligere noluerunt sine dubitatione peccatum est; in eis autem qui non potuerunt pœna peccati. Ergo in utrisque non est justa excusatio sed justa damnatio."—S. Augustin. Epist. CXCIV. n. 27. Cf. Retract. Lib. I. cap. xiii. n. 5.

To maintain the scholastic position as to ignorance and the modern doctrines of probabilism it became desirable to forge an opinion for St. Augustin, and

orthodox belief, as shown in 415 by the council of Diospolis in condemning the opposite opinion of Cœlestius.[1] The earlier schoolmen followed as a matter of course. Gratian classes ignorance with lust as a source of sin, and the results of both are equally punishable.[2] When a schoolman of the period argued that there is no sin in ignorance St. Bernard considered his opinion as scarce worth refutation and easily demonstrated its falsity.[3] Peter Lombard adheres to St. Augustin; wilful ignorance is sin, unconscious ignorance is the punishment of sin, and both merit perdition.[4] Richard of S. Victor says that he who sins through infirmity sins against the Father, who through ignorance sins against the son, who through malice sins against the Holy Ghost; the two former can be redeemed through penance, the latter is unpardonable.[5]

The ecclesiastical system, however, was rapidly growing so complicated and artificial that the moral sense became an insufficient guide, and it soon was felt that much allowance must be made for honest ignorance, especially as enforced confession was bringing before the priest crowds of uninstructed peasants. Thus Alexander Hales says that general contrition suffices for sins committed in ignorance; necessarily they must be passed over in confession, but when he adds that they must be confessed if the ignorance is meanwhile removed he makes a fatal breach in his argument, for this

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this was done without scruple. Liguori, in his defence of probabilism (De Usu Moderato Opinionis probabilis n. 39.—Theol. Moral. Lib. v. n. 4) quotes through Aquinas from St. Augustin (De Libero Arbitrio Lib. III. cap. 19) a garbled passage to the effect that ignorance is not sin, but neglect to learn is. The fraud is the less excusable in that St. Augustin is there arguing the direct contrary of what Aquinas and Liguori cite him to prove, and he proceeds "Nam illud quod ignorans non recte facit et quod recte volens facere non potest ideo dicuntur peccata, quia de peccato illo liberæ voluntatis originem ducunt: illud enim præcedens meruit ista sequentia." Marc (Instit. Moral. Alphonsianæ n. 21) lends himself to the same deceit by quoting only a portion of the passage.

[1] C. Diospolitan. ann. 415, cap. 18 (Harduin. I. 1212).

[2] Gratian Caus. xv. Q. 1, § 2.—"Infirmitas animi est ignorantia. Carnis infirmitas est concupiscentia. Ex utraque autem infirmitate quæ procedunt imputantur ad pœnam.—Cf. post Cap. 12 Caus. I. Q. 4, and S. Augustin *Contra Julianum Pelagianum* Lib. VI. cap. 16.

[3] S. Bernardi Tract. de Baptismo, etc. Cap. iv.

[4] P. Lombard. Collect. in Epist. ad Romanos v. 10–13.

[5] R. a S. Victore de Statu interioris Hominis Tract. II. cap. 3.

infers that sin is none the less sin because committed in ignorance.[1] St. Bonaventura virtually agrees with Hales.[2] Aquinas draws a distinction; if ignorance is such as wholly to exclude the desire to do evil there is no sin, and the excuse is complete, but sometimes it does not wholly exclude the will to evil, and then it excuses only so much, wherefore a man should have contrition for sins committed in ignorance.[3] Moreover, the definition of the ignorance which justifies was much more rigid than that of modern casuists, for the schoolmen held that ignorance of natural or divine law excuses no one who has the use of reason, though there are cases in which ignorance of canon or civil law is a valid excuse.[4] In fact, the schoolmen soon found how sinners took advantage of their speculations. Peter of Palermo denounces those who refused to attend preaching in order that they might have the benefit of ignorance, and he tells of a bishop who said to him that God had given him a great grace in that he had never studied, and thus was saved from a scrupulous conscience.[5]

The question grew in importance as the refinements of the schools constantly increased the difficulty of distinguishing between mortals and venials, for when the doctors themselves were so often at odds the uninstructed layman could not be expected to know the grade of many of his offences. The only resource was, in the increasing laxity of the time, to class sins committed in ignorance with forgotten sins, which, as we shall presently see, were remitted in various ways. There also became apparent the necessity of classifying ignorance itself, and, as already suggested by St. Augustin, it was divided into invincible or inculpable, and vincible or inexcusable, the one being

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[1] Alex. de Ales Summæ P. IV. Q. XVII. Membr. iii. Art. 8; Q. XVIII. Membr. iv. Art. 2, § 7.

[2] S. Bonavent. in IV. Sentt. Dist. XVI. P. ii. Art. 2, Q. 1.

[3] S. Th. Aquin. in IV. Sentt. Dist. XVII. Q. ii. Art. 2 ad 3; Summæ Prim. Sec. Q. LXXVI. Artt. ii. iii.; Suppl. Q. II. Art. ii.

[4] S. Th. Aquin. Quodlibet. III. Artt. x., xxvii.—Alex. de Ales Summæ P. II. Q. cxii. Membr. 8.—Durand. de S. Porciano in III. Sentt. Dist. XXV. Q. 1, n. 10.—Jo. Gersonis de Vita Spir. Animæ Lect. IV. Coroll. 3.—S. Antonini Summæ P. I. Tit. iii. cap. 10.—Summa Angelica s. v. *Opinio* n. 2.

Invincible ignorance excused, but crass ignorance did not, the confessor who committed the mortal sin of making a mistake in the difficult task of estimating the sins of a penitent.—S. Antonini Summæ P. II. Tit. 1, cap. 11, § 28.

[5] Pet. Hieremiæ Quadragesimale Serm. XXII.

that which the sinner had had no opportunity of recognizing, the other that which he could and ought to have removed.[1] Unlike St. Augustin's teaching, however, the one serves as an excuse to hold the sinner harmless, the other only aggravates his guilt, for in itself it is a mortal sin.[2] It was the misfortune of the system that every attempt to perfect it only added fresh complications, and this threw an added burden on the confessor to determine the exact nature of the penitent's ignorance, in which he had to consider the social position and opportunities of the sinner.[3] To aid him the moralists proceeded, with their customary exhaustiveness, to distinguish and classify the various grades and varities of ignorance. First, there is the *ignorantia simplex* of the older schoolmen which came to be known as *invincibilis*, *inculpabilis*, *justa* and *involuntaria*, when there is no knowledge of the existence of a law or precept, so that there can be no conception of the necessity of acquiring knowledge; if the attempt has been made and wrong information obtained, the result is *ignorantia probabilis;* but the attempt need not be exhaustive, for ordinary diligence suffices. This invincible ignorance eliminated a vast portion of the sins of the faithful, for Viva assures us that those of the uneducated and of children are very rarely mortal.[4] Then there is *ignorantia vincibilis*, in which due diligence has not been used, and in this there may be *negligentia gravis* or *levis*, the former conducing to mortal, the latter to venial sin. Then there is the *ignorantia affectata*, when one consciously prefers ignorance in order to be able to sin with impunity, and the *crassa* or *supina*, in which there has been great negligence in seeking enlightenment when doubt has arisen. Besides there are enumerated *antecedens*, the invincible ignorance without which the sin would not have been committed, *concomitans*, when knowledge would not have prevented its commission, and *consequens*, which arises from deliberate evil purpose.[5] We may readily believe that the ordinary confessor is not

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[1] Summa Angelica s. vv. *Confessio* I. § 18; *Pœnitentia* § 8.

[2] Bart. de Chaimis Interrog. fol. 14*a*.—Summa Sylvestrina s. v. *Confessio Sacram.* I. § 6.

[3] Dom. Soto in IV. Sentt. Dist. XVIII. Q. ii. Art. 4.

[4] Viva Cursus Theol. Moral. P. II. Q. 1, Art. 2, n. 6.

[5] Th. Sanchez in Præcepta Decalogi Lib. I. cap. xvi.—Rossell Praxis deponendi Conscientiam cap. vi.—Roncaglia Univ. Theol. Moral. Tract. II. Q. 1, cap. 1, Q. 2.

expected to weigh his penitent's sins by these delicate standards, for they run into each other by gradations so fine, and they become so intermingled with questions of belief and intention that the resultant confusion is well-nigh inextricable, though they serve the purpose of the trained casuist, who can use them to argue away almost every infraction of the Decalogue that is not too flagrantly intentional.[1] A very important extension, moreover, was given to the operation of invincible ignorance by admitting to its benefits ignorance of the natural law. We have seen that in the older time this was denied by the schoolmen, and their teaching was still maintained by the rigorists in the seventeenth century until, in 1690, it was condemned by Alexander VIII., thus admitting to the privilege ignorance of the primal principles of right and wrong.[2]

In practice invincible ignorance reduces a mortal sin to a venial; this includes ignorance as to whether the sin is mortal or venial, and confessors are instructed that many sins among the lower classes rank as venial which among the educated are regarded as mortal.[3] The long exhortation which Father Habert addresses to the young confessor not to believe too readily the ignorance professed by his penitents to be invincible shows how liable the principle is to abuse and inferentially how much it is abused.[4] Yet, in fact, we need no

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[1] Alphons. de Leone de Off. et Potest. Confessar. Recoll. VII. n. 288-330.

[2] "Tametsi detur ignorantia invincibilis juris naturæ, hæc in statu naturæ lapsæ operantem ex ipsa non excusat a peccato formali."—Alex. PP. VIII. Decr. 7 Dec. 1690, Prop. II.—Cf. Th. Sanchez in Præcepta Decalogi Lib. I. cap. xvi. n. 33. For the gradual change from rigor to laxity see Sayre, *Clavis Regia Sacerd.* Lib. II. cap. ix. n. 16 sqq.

It is easy to understand why the Synod of Pistoia, in 1786 (Sess. III. § 7), revived the assertion that ignorance of the natural law does not excuse sin, but it is not so easy to understand why Pius VI. did not include this among the errors of the synod condemned in the bull *Auctorem fidei.* The question as to the possibility of invincible ignorance of the precepts of the natural law led to differences of opinion never as yet authoritatively settled. See Gerdil, *Saggio sul Discernimento delle Opinioni* § 4.

[3] Layman Theol. Moral. Lib. I. Tract. ii. cap. 4, n. 7.—Gobat Alphab. Confessar. n. 458.—Bened. PP. XIV. Casus Conscient. Sept. 1742, cas. 1.

[4] Habert Praxis Sacr. Pœnit. cap. VI. n. 2.

The unfashionable rigorists opposed to the doctrine of invincible ignorance the doctrine of interpretative knowledge—that a man is held to know that which he ought to know, and that he should be as diligent in acquiring the knowledge necessary to salvation as the knowledge requisite to enable him to

further evidence of this than the application which Father Gury makes of the rule *nihil est volitum quin fuerit præcognitum*, to prove that if a man seeks to slay an enemy and by mistake kills a friend, he is not guilty of homicide, and is not bound to restitution to the heirs of the slain, for invincible ignorance is always a justification.[1]

Nearly allied to the question of ignorance is that of consent, which plays a large part in the speculations of the moralists, especially in connection with mental sins. An impulse of the senses, which the reason at once seeks to repress, cannot be regarded as a mortal sin, but the gradations in human acts and processes are so infinite that accurate weighing and measuring are impossible in practice. Yet this is what the system compels the confessor to attempt, and to aid him the doctors have classified consent as negative and positive, while the latter is again divided into perfect, imperfect and absolute, direct and indirect, efficacious and inefficacious, true and interpretative[2]—a series of distinctions more apt, one may fear, to confuse

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follow his vocation or to gratify his worldly desires.—Concina Theol. Christ. contract. Lib. VIII. Diss. iii. Cap. 2, n. 13–17.

It is not surprising that the rigid school objected to the general principle that invincible ignorance renders mortal sins venial. There was, for instance, a wide-spread popular belief that simple fornication is no sin, owing to its toleration by both Church and State, and at least one theologian, Martin le Maistre, confessor of Louis XI., who died in 1482, asserted its sinlessness (Marchant Trib. Animar. Tom. I. Tract. v. Tit. 5, Q. 5, Concl. 1). The Inquisition of Toledo alone, between 1575 and 1610, tried no less than 264 persons who had publicly defended this proposition (Königl. Universitäts Biblioth. Halle a. d. Saale, Yc. 20, T. I.). As they were, for the most part, ignorant peasants, according to the casuists all these, while so believing, could commit fornication without formal sin.

The application of invincible ignorance to heretics and infidels gave rise to considerable debate, which will be referred to in the next chapter.

[1] Gury Casus Conscientiæ I. 12.—Voit (Theol. Moral. Tract. de Actibus Humanis n. 37 cas. 7) reaches the same result by a somewhat different process. The man sought to be killed is not injured, neither is the man who was killed, because this was involuntary; therefore the slayer incurs no responsibility, provided he had used moral diligence to avoid the mistake.

Bonal (Instit. Theol. T. V. n. 20) warns the student that he must not conclude that the ignorant man is better off than the learned, for then a being deprived of reason would be more fortunate than an intelligent man, but he adduces no argument to disprove this inevitable conclusion from the premises.

[2] Alasia Theol. Moral. De Peccatis Diss. I. cap. vii. Art. 1.

than to assist the ghostly father, and one which affords frequent opportunity to the skilful casuist to soothe or to exacerbate the conscience of the sinner.

Another closely related distinction, which gives large scope to the subtilties of the moralists, is that between what are known as material and formal sins. Formal sin is the deliberate violation of the law; material sin is when the trangression is involuntary or excusable through error or ignorance or adequate motive, as when the act is done to avoid a greater evil.[1] Material sin thus loses its sinful quality, and we shall see, when we come to consider probabilism, how supreme a part it plays in the doctrines of the laxer morality.

Akin to these speculations is a question which has excited no little controversy as to the degree of advertence requisite to create mortal sin. In the early Church the tendency was to hold the sinner to strict accountability for his acts, and to make small allowance for inadvertence, whether arising from negligence or from the gust of passion.[2] Aquinas shows a disposition to make concessions; passion may induce temporary ignorance through lack of advertence, but to deprive an act of sin the passion must be such as to subvert the will and render the act wholly involuntary; an act suddenly performed without reflection may be venial, when if there is deliberation it would be mortal.[3] Toward the middle of the fourteenth century Robert Holkot developed this into the proposition that no matter what sin a man existing in charity may commit, if it is done through passion which excludes the use of reason it will not be imputed to him as mortal sin.[4] This somewhat dangerous doctrine was not accepted by his contemporaries. Peter of Palermo admits that passion may give a claim for pardon, but unless there is repentance the sin will be imputed as mortal,[5] yet Thomas of Walden, in answering Wickliffe's

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[1] Henriquez Summæ Theol. Moral. Procem.—Jo. Sanchez Selecta de Sacramentis Disp. XLIV. n. 66.—Habert Theol. Moral. De Conscientia cap. II. Q. 5. —Voit Theol. Moral. I. 71.—Gury Comp. Theol. Moral. I. 143.

[2] S. Augustin. de vera Religione cap. xiv.; Contra Academicos Lib. III. cap. xvi.; Retractat. Lib. I. cap. xiii. n. 5.—Concil. Diospolitan. ann. 415, cap. xviii. (Harduin. I. 1212).—Gregor. PP. I. Regest. Lib. XI. Epist. lxiv. Interrog. 11.

[3] S. Th. Aquinat. Summæ II. I. Q. vi. Art. 7; Q. lxxiii. Art. 6; Q. lxxvii. Artt. 2, 6, 7.

[4] D'Argentré Collect. Judic. de novis Error. I. I. 340–1.

[5] Pet. Hieremiæ Quadragesimale Serm. XXII.

gibes, classifies as venial those sins which are committed through preoccupation or without premeditation.[1] Gerson also admits that there is no precept so imperative but that it may be venially transgressed through impulse or lack of formal consent.[2] St. Antonino is more rigid; he only admits that passion diminishes sin, but then inconsiderateness is in itself a sin.[3] Caietano draws a distinction; full advertence and deliberation are requisite to mortal sin, but this on condition that the sinner would have refrained had he paused to consider, and in this he is followed by Bartolommeo Fumo.[4] Cardinal Toletus shows the progress of laxity; there may even be brief delay, implying negligence, yet a sin committed under the impulse of passion is venial.[5]

With the development of probabilism the extenuating functions of inadvertence were enlarged. Manuel Sa tells us that it is not a mortal sin to trangress a law without full deliberation, and as this escaped the minute censorship of the Index of Brisighelli it received the implied approbation of the Holy See.[6] Tomás Sanchez holds that perfect deliberation is requisite to render sin mortal; a man may think of everything else concerning a proposed act, but if he happens not to advert to its wickedness it is venial. There must be full freedom of will and perfection of consent, and inadvertence is divisible into the same gradations as ignorance.[7] These became the accepted teachings of the dominant school of moralists. Inadvertence may arise from ignorance, forgetfulness, lack of foresight, distraction, disturbance of the mind, haste, preoccupation, violence or fraud; even the devil may cause it, for God frequently permits him to control the imagination, when the sinner becomes irresponsible. To consti-

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[1] Th. Waldens. de Sacramentis. cap. LVI. n. 3, 7.

[2] Jo. Gersonis de Cognit. Peccatorum venial. et mortal. Considerat. II.

[3] S. Antonini Summæ P. I. Tit. ii. cap. 1, § 3; P. II. Tit. 5, cap. 11.

[4] Caietani Summula s. vv. *Delectatio, Inconsideratio.*—Aurea Armilla s. v. *Inconsideratio* n. 1.

[5] Toleti Instruct. Sacerd. Lib. III. cap. ii. n. 2.

[6] Em. Sa Aphorismi Confessar. s. v. *Lex* n. 4. Somewhat allied to this is a curious doctrine which illustrates the laxity of the period. Sayre says (Clavis Reg. Sacerd. Lib. II. cap. vi. n. 16) that if a man gives cause for sin and repents before the effect, he is not guilty. Thus if he administers poison and repents before the ensuing death, it will not be imputed to him.

[7] Th. Sanchez in Præcepta Decalogi Lib. I. cap. 1, n. 6, 7, 8, 13; Lib. II. cap. xvi. n. 8.

tute mortal sin advertence must be actual, not merely virtual or interpretative—virtual being that which the actor had, but which is lacking at the moment of action, and interpretative being that which he has not but could or ought to have had. Thus a man who sins without thinking of it does not sin, and sins committed in intoxication are not imputable to the perpetrator.[1] Tamburini even asserts that habitual sins are not sins and need not be confessed.[2]

Sin thus came to be divided into two kinds, known as theological and philosophical, in accordance with a dictum of Aquinas that theologians consider it principally as an offence against God, while moral philosophers treat it as antagonistic to right reason.[3] The *Peccatum Philosophicum* thus was recognized as a sin against reason, but as the sinner does not advert to its trangression of the law of God, it is not an offence against God, and therefore not theologically a sin. The doctrine that inadvertence excuses sin became everywhere current in the schools and in the confessional, save among the Gallican rigorists, and provoked no remonstrance from the Holy See. There is no allusion to it among the propositions condemned by Alexander VII. and Innocent XI., in 1665, 1666 and 1679, but its laxity offered a fair mark for attack by the so-called Jansenists, of which Pascal availed himself fully,[4] and it thus became one of the issues between the rigorists and the laxists. The former obtained an advantage over their opponents when, in 1686, at the Jesuit College of Dijon, a thesis was defended which put the theory in a slightly more definite shape by asserting that the *Peccatum Philosophicum*, however grave, in a man who is ignorant of God, or who in the act does not think of God, is a grave sin, but is not an offence against God, nor a mortal sin in sundering friendship with God, nor worthy of eternal punishment.[5] Antoine Arnauld seized the occasion to

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[1] Jo. Sanchez Selecta de Sacramentis Disp. XVIII. n. 1.--Reginaldi Praxis Fori Pœnit. Lib. XV. n. 75.—Layman Theol. Moral. Lib. I. Tract. iii. cap. 5, n. 13.—Marchant. Trib. Animar. Tom. I. Tract. III. Tit. ii. Q. 1, 2, 3.—Busenbaum Medull. Theol. Moral. Lib. I. Tract. iii. cap. 5, n. 13.

[2] Tamburini Method. Confess. Lib. II. cap. iii. n. 23-5.

[3] S. Th. Aquin. Summæ II. I. Q. lxxi. Art. 6, ad 5.

[4] Provinciales, Lettre IV.

[5] "Peccatum Philosophicum seu morale est actus humanus disconveniens naturæ rationali et rectæ rationi. Theologicum vero et mortale est trangressio libera divinæ legis. Philosophicum quantumve grave, in illum qui Deum ignorat, vel de Deo in actu non cogitet, est grave peccatum sed non est offensa

issue a violent attack upon this as a new heresy, and the Jansenists sought to involve the whole Company of Jesus by proving that this was a natural consequence of the Jesuit doctrines of non-imputable material sin, arising from ignorance or erroneous belief as to the character of an act. The Jesuits made haste to disavow the thesis, and on its transmission to Rome it was condemned by Alexander VIII. in 1790.[1] The Jansenist victory was a barren one. The Jesuits and their probabilist allies did not deem it necessary to alter their teachings by a jot. Arsdekin, in the latest revision of his theology, refers, indeed, to the decree of Alexander, but asserts that when a man inculpably does not think of the wickedness of his act, he does not commit sin, though he may act with full deliberation and the action may cover a period of long duration; no matter how grave the sin, full advertence and complete assent of the will are requisite, and imperfect advertence excuses it; if the malice of the act is twofold and only one aspect of it is considered, that is the only sin committed, so that if a thief steals the sacred vessels, and only thinks of theft, he is not guilty of sacrilege.[2]

The doctrine thus continued to be taught by the laxer school that full advertence is requisite to constitute mortal sin; that when wrath or concupiscence is sufficiently strong to divert the intellect from considering the nature of the act, the requisite degree of free-will is lacking to render it mortal.[3] Even the more rigorist theologians accepted the principle to a greater or less degree, though Cardinal Gerdil asserts that indirect volition suffices for sin, and that a man voluntarily intoxicating himself is accountable for his acts during intoxication.[4] The difficulty of absolute definition in such a subject

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Dei neque peccatum mortale dissolvens amicitiam Dei neque æterna pœna dignum."—D'Argentré, III. II. 355.

[1] D'Argentré, *loc. cit.*—Le Tellier, Recueil des Bulles etc. pp. 455–9, Mons (Rouen) 1697.—Quatrième Denonciation de l'Heresie du Peché Philosophique, s. l. 1690.—Alex. PP. VIII. Decr. 24 Aug. 1690.

[2] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 15.

[3] Viva Cursus Theol. Moral. Tom. I. P. ii. Q. 1, Art. 2, n. 5, 6.—La Croix Theol. Moral. Lib. I. n. 549.—Herzig Man. Confessar. P. I. n. 65, 67–8.—Reiffenstuel Theol. Moral. Tract. III. Dist. ii. n. 5–8, 15.—Sporer Theol. Moral. Tract. I. cap. ii. n. 64.—Roncaglia Theol. Moral. Tract. I. Q. ii. cap. 3, Q. 3; Tract. II. Q. 1, cap. 1, Q. 2.

[4] Antoine Theol. Moral. Tract. De Peccatis cap. IV. Q. 7.—Wigandt Trib. Confessar. Tract. IV. n. 59.—Habert Comp. Theol. De Vitiis et Peccatis cap.

is seen in Liguori's confused and contradictory utterances, varying from what is a virtual approval of the condemned doctrine of the *Peccatum Philosophicum* to the assertion that inadvertence may be voluntary through negligence or passion, that he who acts through passion is responsible, and that in habitual sin there is confused cognition sufficient to render the sin imputable.[1] The Ligorian school, which so completely dominates modern moral theology, has therefore considerable latitude for conflicting opinions, and its spokesmen are not wholly in unison. Some require actual advertence to constitute mortal sin; others more rigidly incline to virtual, but the definitions of the different grades are not always identical, which introduces a fresh source of confusion. As a whole, however, it may be assumed that the leading doctrine of to-day is that the commission of mortal sin requires advertence actual or so nearly actual that the distinction is not easily grasped.[2] From this the deduction is plain that sins committed during intoxication are not formal sins unless there has been a predetermination to commit them.[3]

In view of the uncertainties, natural and artificial, of the distinction between mortal and venial sins, it is no wonder that, although the infinite distance between them has been sedulously upheld, and the enormity of the former has been rather exaggerated than diminished with time,[4] the books are full of cases in which the doctors dispute as to the class to which an individual sin is to be referred,

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IV. Q. ii.—Piselli Theol. Moral. Summæ P. I. Tract. ii. cap. 5, § 3; Tract. xix. cap. 1, 2.—Alasia Theol. Moral. De Peccatis Diss. I. cap. vii. Art. 1.—Gerdil, Saggio sul Discernimento delle Opinioni, § 4.

[1] S. Alph. de Ligorio Theol. Moral. Lib. v. n. 4, 11.—Istruzione Pratica cap. I. n. 4; cap. III. n. 24, 25, 32; cap. VIII. n. 8.—Dichiarazione del Sistema che tiene l'Autore, n. 11.

[2] Gousset Theol. Moral. I. 221–3.—Gury Comp. Theol. Moral. I. 150.—Bonal Instit. Theol. Tract. de Peccatis cap. 1, n. 12, 13.—Varceno Comp. Theol. Moral. Tract. VI. cap. ii. Art. 2.—Martinet Theol. Moral. Lib. I. Art. xv. §§ 2, 5.—Marc Institt. Moral. Alphonsianæ n. 291, 317–18.

[3] Kenrick Theol. Moral. VII. 81.—Gury Casus Conscientiæ I. 1, 2.

[4] Father Leuterbreuver, in a little work entitled *La Confession coupée* (Paris, 1751), designed to facilitate the preliminary self-examination of the penitent, explains (p. 38) that sin offends God " et quand tu a offensé ton Dieu tu a fait plus de mal que si tu avois renversé toute la nature; que si tu avois même détruit et anéanti les anges, les saints, les cieux, etc."

and that doubtful sins, which may be adjudged to either, form a large and important division. The council of Trent threw no light on the subject beyond repeating the current doctrine that venial sins do not deprive of justification a man who is in a state of grace, while mortal sins, even in thought, render men children of wrath and enemies of God.[1] The Tridentine catechism, designed especially for the guidance and assistance of parish priests, evades any definition and merely says that venial sins require some kind of repentance.[2] From all this there was no help to be gathered, and post-Tridentine moralists are as much at sea as their predecessors. Father Marchant repeats the assertion of the medieval doctors that the confessor is not expected to decide whether a given sin is mortal or venial, for this is impossible, even for the most accomplished theologian.[3] Yet this is precisely the task imposed by the Church on the priest in the confessional, and Father Gury endeavors to aid him with three rules—to refer to Scripture, to consult the definitions of the popes and general councils, and to examine the doctors and theologians, for what they unanimously declare to be mortal is to be held as such. This must sound like mockery to any one who has glanced, ever so cursorily, at the vast mass of contradictory literature on the subject, and in mercy he adds three tests of mortal sin—

1. All sins directly against God or any of his perfections, and all which tend to the grave prejudice of the human race, such as the various species of lust.

2. All committed against an important precept, such as omission of fasts, mass, annual confession, paschal communion, etc.

3. All which injure others seriously in life, fortune or reputation.

But he concludes with the remark that in very many cases it is impossible to distinguish between mortals and venials, as is shown by the innumerable controversies of the doctors on the subject.[4] And this apparently is all that the accumulated wisdom of centuries has been able to contribute to the solution of the fundamental problem of the confessional.

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[1] C. Trident. Sess. VI. De Justificat. cap. 11; Sess. XIV. De Pœnit. cap. 5.

[2] Catech. Trident. De Pœnit. cap. 4.

[3] Marchant Trib. Animar. Tom. I. Tract. ii. Tit. 5, Q. 2, Dub. 7. "Quia tale determinatum judicium quoad gradum peccati et malitiæ omnino impossibile est apud emeritissimum theologum."

[4] Gury Comp. Theol. Moral. I. 151–2.

It may be gathered incidentally from the foregoing that the list of mortal sins has increased enormously since the time of St. Augustin and even since Gratian framed his short and simple enumeration. The definition of venial sin, in fact, gave no hold on the conscience —as Caietano remarks, when a man knows a sin to be venial he has no scruple in committing it.[1] The tendency therefore to expand the definition of mortals has been irresistible. John of Freiburg classes scurrility and foolish talk as mortal; Angiolo says that it is mortal to adjure any one over whom we have no control, as it is taking the name of God in vain.[2] St. Antonino tells us that to eat for the pleasure of eating, or to use too much care in the preparation of delicate food is mortal, as well as to desire any dignity or office on account of temporary advantage or honor; a merchant can trade without sin to support his family, but if the object is accumulation of money it is mortal, and so is it with an armorer who sells weapons that he has reason to think will be used in an unjust war; but this delicate sensitiveness reveals a curious moral perspective when we find that it is venial for a son to refuse to support his parents or for him to treat them with contumely and contempt, so long as he does not actually commit violence on them.[3] The moral hyperæsthesia manifested by St. Antonino would seem to have increased rather than diminished since the fifteenth century. He tells us that drinking intentionally to intoxication is probably a mortal sin; whatever doubt existed on that point has disappeared, for Salvatori says not only that getting drunk is mortal, but even entering a tavern, because it is an exposure to a proximate occasion of committing a sin,[4] and we learn from Gury that while it is admitted that surgeons can without sin administer ether before an operation, Liguori and other authorities

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[1] Caietani Summula s. v. *Scrupulosorum medicina.*

[2] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 271.—Summa Angelica s. v. *Adjurare* § 1.

[3] S. Antonini Confessionale fol. 24*a*, 39*a*, 40*b*, 41*a*, 52*a*, 53*a*.—Bart. de Chaimis Interrogat. fol. 72–76.

[4] S. Antonini Confessionale fol. 39*a*.—Salvatori, Istruzione per i Confessori novelli P. I. § xii. A century before St. Antonino the Summa Pisanella had defined (s. v. *Gula* § 1) intentional intoxication as a mortal sin.

Salvatori (*ubi sup.*) furnishes an illustration of the artificial standard of morals when he tells us that it has happened to him hundreds of times that men who confessed to spending all Sundays and feast-days in taverns, when asked if they ever worked on a holiday would reply with horror "God forbid!"

hold that it is mortal to give alcohol for the same purpose.[1] It is scarce worth while to give further examples. The manuals for self-examination before confession and for the guidance of confessors in interrogating penitents show, in their almost interminable details, that the same liberal definition of mortal sin is carried into every detail of daily life and human action, nor do the moralists pause to realize what is their conception of a Creator who can condemn to everlasting torment his creature for eating a dinner with too much relish, or for drowning his sense of present miseries in intoxication, or for endeavoring to make too much profit in the difference between a buying and a selling price, or whose blood chances to be stirred at the touch of a woman's hand. Michael Bay only exaggerated the orthodox tendency when, among other errors, he asserted that there are no venial sins—that all are worthy of eternal death.[2]

If there is difficulty in laying down rules for the distinction between mortal and venial actions, it can readily be imagined that the questions connected with the sinfulness of evil thoughts involve intricacies equally puzzling. As Alexander Hales says, it is most difficult in this matter to draw the line between mortals and venials.[3] Theoretically, the subject has been treated in a very reasonable way by making the degree of sin depend upon the consent accorded to the sinful suggestion. Evil emotions may arise in any mind, but if they are sternly quelled at the moment they leave no stain of sin behind them, provided the proximate cause is avoided. Thus a man

[1] Gury Casus Conscientiæ I. 181. This is one of the numerous cases in which the authorities are at odds. Intoxication by advice of a physician is no sin according to Caietano (Summula s. v. *Ebrietas*), Toletus (Instruc. Sacerd. Lib. VIII. cap. lxi. n. 1), Laymann (Theol. Moral. Lib. III. Sect. iv. n. 5) and Busenbaum (Medull. Theol. Mor. Lib. v. Cap. iii. Dub. 5, Art. 2, n. 2). Liguori, too, at first was of the same opinion, but subsequently altered it. See Q. 55 of the list of changes prefixed to his later editions.

According to some moralists (Vittorelli in Tolet. *loc. cit.*) it is a mortal sin to sell wine or liquor to those who will probably get drunk on it, but this view would seem to be obsolete if we may judge from the recent rescript of Bishop Watterson, of Columbus, on liquor-dealing, and the reception which it has met.

[2] Pii P. V. Bull. *Ex omnibus*, 1567, Prop. 20 —Virtually the same error was ascribed to Wickliffe.—Litt. de Error. J. Wiclef Art. 210–11 (Wilkins Concil. III. 347).

[3] Alex. de Ales Summæ P. II. Q. cxx. Membr. ii.

looking upon a woman may have a carnal thought; if he keeps his eyes fixed on her he is held to consent tacitly to the thought, even though he may elicit an act of dissent; he has committed a mortal sin, which must be included in his confession. Any mental consent to the evil suggestion, after it has been recognized by the intellect, is known as *delectatio morosa*, and this, even if only virtual or interpretative, is a mortal sin when the subject of the thought is mortal, though a distinction is drawn as to whether the source of pleasure is the sin or some attending accident. Thus a man contemplates a proposed theft, and finds gratification in the adroitness with which he expects to perpetrate it, in which case the *delectatio morosa* is venial, but if the gratification arises from thinking of the injury which he will inflict, it is mortal.[1] This is an illustration of the endless refinements in which the moralists disport themselves in framing distinctions between mortals and venials in mental sins, fully bearing out the assertion of Alexander Hales as to the extreme difficulty of differentiation in so nebulous a subject. In one aspect, moreover, it is peculiar, for there appears to be in it substantial agreement between the rigorous and the laxer schools.

There was doubtless a service rendered to moral progress in this close investigation into the duties which man owes to his fellows, and perhaps even in the exaggeration which affixed penalties so tremendous to aberrations so trivial, although this could scarce avoid blunting the conscience by blindly ascribing the same extreme punishment to offences varying so vastly in turpitude. Intemperate severity is as unwise as undue laxity; when perdition is thus so lavishly distributed it cannot but lose some of its terrors, and the foulest carnality is relieved of some of the detestation due to it when it is put on the same plane as honorable ambition. Moreover, in the endeavor to reduce the system to practice, the inevitable result is the introduction of an arbitrary standard in which the simple distinctions of morality are obscured. The dread of rendering confession odious contributed unfortunately to laxity in matters where rigidity would cause grave inconvenience. A man who ignorantly rents a house to a prostitute can allow her to remain until the end

[1] S. Th. Aquin. Summæ Prim. Sec. Q. LXXIV. Art. viii.—S. Antonini Summæ P. II. Tit. 5, cap. 1, §§ 4, 5.—Sayri Clavis Reg. Sacerd. Lib. VIII. cap. vii. n. 3, 4.—Piselli Theol. Moral. Summæ P. I. Tract. xi. cap. 1, 2.—S. Alph. de Ligorio Theol. Moral. Lib. V. n. 14 sqq.

of the term, and whether he is then bound to turn her out depends on various considerations, including his ability to find another tenant. Servants ordered by their employers to assist in sin are not required to throw up their situations, for though they cannot co-operate *formaliter*, they can *materialiter*.[1] How completely the question of sin becomes a plaything in the hands of these casuistic experts is seen in the case of a woman confessing that through negligence she had thrice omitted the prayers of the Confraternity of the Rosary; now this is no sin, for there is no precept requiring them, but we are told that a priest would err who did not make her believe that it is a sin.[2] Still more unfortunate in its anæsthetic influence on the moral character is the decision that it is no sin to yield to temptation in the confidence of being able to secure pardon from God by confession. This is as old as Aquinas, with the limitation that the intention to continue sinning with the expectation of pardon is a sin, but Gury adds that there is no sin in repeating the offence, and argues that it is as easy to confess repeated sins as single ones.[3]

There is one very intricate question on which the authorities are at issue—the cumulation or coalescence of sins. The intention to commit a sin is a sin; a man may contemplate a sin many times before he has opportunity to commit it; is every time he thinks of it or plans for it a separate sin? Since the thirteenth century the

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[1] Gury Casus Conscientiæ I. 225, 228, 241.

The earlier moralists found no difficulty in proving that it is no sin to rent a house to a prostitute in which to ply her trade (Th. Sanchez in Præcepta Decalogi Lib. I. cap. vii. n. 20, 31), but they drew curious distinctions as to what was allowable in servants. To carry an ordinary love-letter was reckoned indifferent, but if it was too warmly phrased the bearer committed sin; servants could accompany a concubine to their master, but could not carry her in a chair or drive her in a coach (Escobar Theol. Moral. Tract. VII. Exam. iv. n. 43.—Alph. de Leone de Off. et Potest. Confessoris Recoll. XIII. n. 60–63). For conflicting opinions on these matters see S. Alph. de Ligorio *Theol. Moral.* Lib. II n. 67, with Ballerini's note to Gury's *Theol. Moral.* I. 251, Q. 5, and the remarks of the Redemptorists in the *Vindiciæ Alphonsianæ*, pp. 175 sqq.—Innoc. XI. (Decr. 2 Mart. 1679, Prop. 51) condemned the proposition that servants could without mortal sin aid the *bonnes fortunes* of their employers, but modern casuists manage to evade the condemnation.

[2] Gury Casus Conscientiæ I. 38.

[3] S. Th. Aquinat. Summæ Sec. Sec. Q. XXI. Art. ii. ad 3.—Gury Casus Conscientiæ I. 204.

question has been debated and has never been settled. Some doctors hold that each thought is a sin, others that the whole series is one sin, others again that it depends on the outcome. Thus a man seeks to seduce a woman; if he succeeds, he commits but a single sin; if he fails, each effort made—words, looks, love-letters etc.—is a separate sin and must be so confessed. The correct application of such a doctrine to all the infinite varieties of human wickedness will be seen to offer many puzzles. If a man confesses that for a year he has hated his brother, this is insufficient, for the internal sin has been repeated many times. If he utters words of detraction against a family, some doctors think it to be a single sin, others that it is multiplied by the number of members of the family; if he steals money belonging to several people, some hold it to be one sin, others that it is as many as there are losers. It is generally agreed, however, that if he neglects to fast for half of Lent, each fast-day omitted is a separate sin to be confessed and atoned for. There has been an effort made to simplify the problem by drawing a distinction between internal and external acts, but it is not universally applicable, and the subject affords an almost limitless field for the exercise of casuistic subtilty.[1] It is further complicated by its connection with the theory of *parvitas*—whether a sin which is venial on account of its trivial character can become mortal by repetition, the whole series being considered as one. The principal interest in this lay in its application to petty thefts, which, it was argued, could be continued indefinitely without ceasing to be venial,[2] in which shape, as we have seen above (p. 245), it was condemned in 1679 by Innocent XI.

However much the area of venial sins may have been limited by the constantly encroaching definition of mortals, they form too large a portion of the aberrations of human infirmity not to have been the subject of earnest and endless discussion. We have seen that in modern theology they are not regarded as interfering with the state of grace and justification, and the older Fathers were likewise dis-

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[1] Hostiens. Aureæ Summæ Lib. v. De Remiss. § 8.—P. de Palude in IV. Sentt. Dist. xvi. Q. iii. Art. 3.—Caramuelis Theol. Fundam. n. 732–45.—Busenbaum Medull. Theol. Moral. Lib. v. cap. 1, Dub. 3, Art. 2.—Clericati de Pœnit. Decis. xxiv. n. 12–18.—Gury Casus Conscient. I. 150–6.

[2] Th. Sanchez in Præcepta Decalogi Lib. i. cap. iv. n. 9.

posed to look upon them with great leniency. Origen dismisses them with the remark that they are redeemed without intermission by repentance, and Ambrose says virtually the same.[1] St. Augustin is satisfied with the mere repetition of the Lord's Prayer, and Julian Pomerius follows him.[2] Then Gregory the Great made his suggestion as to purgatorial fires which should purge the soul of its venial sins, but this seems to have awakened no response from his contemporaries and successors until it was exhumed in the twelfth century. St. Eloi of Noyon, in the middle of the seventh century, is more rigid than his predecessors, for he prescribes forgiveness of enemies and almsgiving as necessary for the redemption of venials,[3] but the authority of St. Augustin was preponderating, and his view was generally followed.[4]

In the twelfth century reconstruction of theology, Gratian included in his compilation the dicta of both Gregory and Augustin.[5] They might well appear irreconcilable, for while the one promised release through a simple formality, the other required the unutterable pangs of purgatory for expiation and purification. Yet neither authority could be rejected, and in time it became generally accepted that what the recital of the Lord's Prayer would remit in life, if this was neglected, would entail purgatorial fires for a term of unknown duration; still this theory was long in winning its way universally, for, in 1317, Astesanus merely speaks of the expiation of venial sins in purgatory as the common, safer and truer opinion.[6] Peter Lom-

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[1] Origenis Homil. in Leviticum XV. 2.—S. Ambros. de Pœnit. Lib. II. cap. 95.

[2] S. Augustin. Enchirid. cap. lxxi.; Serm. CCCXCIII.—Juliani Pomerii de Vita Contemplativa Lib. II. cap. vii.

[3] S. Eligii Noviom. Homil. VI.

[4] C. Toletan. IV. ann. 633, cap. 10.—Halitgari Lib. de Pœnit. Præfat. (Canisii et Basnage Thesaur. II. II. 89).—Ivon. Decr. P. XVII. cap. 122.—Cf. Ps. August. de vera et falsa Pœnit. cap. IV. n. 10.

[5] Cap. 4, Dist. XXV.; Cap. 20 Caus. XXXIII. Q. iii. Dist. 3.

[6] Astesani Summæ Lib. V. Tit. iv. Art. 2, Q. 7.

How venial sins are remitted in purgatory when a man must die in grace to get there is so difficult a problem that the theologians enumerate eight different opinions concerning it.—Clericati de Pœnit. Decis. XXXIII. n. 18.

Henriquez explains (Summæ Theol. Moral. Lib. V. cap. 20) that when the soul reaches purgatory it summons all its vigor for a fervent act of charity, which releases it from the *culpa* of all its venials, but the *pœna* still remains to be endured. Duns Scotus (In IV. Sentt. Dist. XXI. Q. 1) raises the question

bard was scarce prepared to admit so facile a means of pardon for venials during life, for he prescribes, in addition to the Lord's Prayer, contrition, fasting and almsgiving, together with confession if there is opportunity, but he is not wholly consistent as to this, for in another passage he seems to admit that the general confession in the service of the mass suffices for their redemption.[1] Alain de Lille copies the first of these opinions,[2] but when we reach the fuller development of the sacramental theory in the time of S. Ramon de Peñafort, we find sacramental confession reserved for mortal sins, and an enlargement and simplification of the means of pardon for venials. Choice is offered between six methods—the Eucharist, holy water, almsgiving, prayer, especially the Paternoster, the daily general confession in the service, and the sacerdotal benediction; it would also appear that good actions neutralize venial sins.[3] Alex-

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whether venials can be remitted in hell, which would seem somewhat superfluous, but it was still discussed in the seventeenth century (M. Becani de Sacramentis Tract. II. P. iii. cap. 32, Q. 9, 10).

[1] P. Lombard. Sentt. Lib. IV. Dist. xvi. § 4; Dist. xxi. § 5.

[2] Alani de Insulis Lib. Pœnitent. (Migne CCX. 301–2).

[3] S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.

This is the earliest allusion I have met with to the pardon of venial sins by aspersion with holy water. It would seem to be based on a False Decretal, attributed to Alexander I., whose date is 108–116 (Ps. Alex. Decr. I.—Migne, CXXX. 92), carried into Gratian (Cap. 20 P. III. Dist. iii.) through Burchard (Decr. II. 53) and Ivo (Decr. II. 68). It describes the virtues of holy water, among which is enumerated that "et coinquinatos sanctificat atque mundat et purgat et cetera bona multiplicat"—the application of which to the redemption of sin would apparently embrace mortals as well as venials. The exorcisms and benedictions used in making holy water, as given in a sacramentary of the seventh or eighth century, assume for it no efficacy in the matter of sin; as yet its only function was to drive away demons (Sacram. Gregor. *ap.* Muratori Opp. T. XIII. P. II. pp. 852–55).

Olimpio Ricci (De' Giubilei Universali, p. 25, Roma, 1675) states that holy water is a pagan custom Christianized by the Church, having been introduced by Alexander I., to take the place of the lustral water with which the Romans were aspersed before entering a temple. Oddly enough, there is a precedent for its use in the removal of sin in the water of a fountain of Mercury, which, when sprinkled on the worshipper with a laurel bough, washed away certain sins, such as lying, cheating etc. (Ovid. Fastor. Lib. V. 673–88).

The authority of S. Ramon was sufficient to establish its position among the means of removing venial sins, and it has continued ever since to be included among them. Prierias explains that there are two kinds of holy water, one blessed by bishops with wine and ashes, used in consecrating and

ander Hales devotes an amount of discussion to the remission of venials, which shows that the matter was as yet by no means settled. Contrition, he says, wipes out mortals but not venials, though contrition, or at least attrition, is a condition precedent, and neither mortals nor venials can be remitted so long as the inclination to them remains. The confession of venials is unnecessary, for, under the foregoing conditions, they can be removed by the Eucharist, the Paternoster, beating the breast, holy water, and in many other modes. The question whether in purgatory they are remitted *quoad culpam* as well as *quoad pœnam* was a disputed one, in which Hales supports the negative.[1] Cardinal Henry of Susa copies S. Ramon's list of means of remission, except that he adds beating the breast and substitutes the episcopal for the priestly benediction.[2] Aquinas enlarges the list of remedial agencies with blessed bread, prayer in a dedicated church, compassion for others, and any light penance, but he insists on repentance, and says that the remission of punishment is proportional to the degree of fervor towards God felt by the sin-

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reconciling churches, the other by priests with salt, which drives away demons and washes away venial sins, not sacramentally, but by way of merit, as it elevates the mind to devotion, which is virtual contrition. He adds that if common water be added to holy water the whole becomes holy, and this can be continued indefinitely, though the quantity each time added must be less than what it is added to, as otherwise the ocean would all be holy water, as it has so often been sprinkled (Summa Sylvestrina s. v. *Aqua benedicta* §§ 1–3. Cf. Summa Tabiena s. v. *Aqua benedicta*). Manuel Sa, however (Aphor. Confessar. s. v. *Benedictio* n. 1), denies that the addition must be less in quantity, leading to the conclusion that the ocean must all be holy. Melchor Cano argues (Relectio de Sacramentis in genere, Ed. 1550, pp. 8–9) that holy water wipes out venials *a culpa et a pœna*, and this without the collation of grace or sanctity. Ferraris (Prompta Biblioth. s. v. *Aqua benedicta* n. 5) explains that it is not a sacrament, for it does not infuse grace or remit sins *ex opere operato*, but he still cites the pseudo-Alexandrian decree, and gives the same view as Prierias of its efficacy in remitting venials. Cf. Tournely de Sacr. Pœnit. Q. XI. Art. ii.

Its virtues however are not confined to the living. Sprinkled over graves it refreshes and refrigerates the souls in purgatory. They even are comforted every time that one of the faithful dips his fingers into it.—Père Huguet, Vertu miraculeuse de l'eau bénite, Lyon, 1870, p. 9.

[1] Alex. de Ales Summæ P. IV. Q. x. Membr. viii. Art. 1, § 1; Q. xv. Membr. iii. Art. 3, §§ 2, 5; Art. 5; Q. XVII. Membr. iv. Art. 2; Q. XVIII. Membr. iv. Art. 1.

[2] Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remis. § 8.

ner.[1] Bonaventura argues that neither repentance nor penance are necessary for venials, because they can be remitted after death as well as in life, but for those who desire their remission it suffices to remember the Passion or use holy water, or to receive the episcopal benediction.[2] John of Freiburg gives the usual list and adds that all good works suffice, but that there must be some repentance, something between actual and habitual contrition.[3] Pierre de la Palu is stricter, for though he does not forbid the use of the sacramentals, he recommends as much more efficient the full sacrament of confession and penance.[4] Astesanus is likewise not inclined to laxity, while his long and intricate discussion shows how difficult the doctors found it to agree upon a working theory; repentance is unnecessary for salvation, as venial sins can be expiated in purgatory, but for their remission in life thorough detestation of each one separately is requisite, for reparation is due to God for every inordinate act; some slight movement of grace and charity suffices, and human weakness renders impossible an intention not to relapse. Curiously enough he nowhere speaks of holy water, the Paternoster etc. as remedial agents.[5] Yet the simpler methods of relief continued to be regarded as sufficient and were condensed into the distich

> Confiteor, tundo, conspergor, conteror, oro,
> Signor, edo, dono, per hæc venialia pono,[6]

which shows that the sign of the cross had come to be included.

The council of Trent gave a tacit consent to this in saying that venial sins can be expiated in many ways besides confession, while the Tridentine Catechism only remarks that they require some kind

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[1] S. Th. Aquinat. in IV. Sentt. Dist. XVI. Q. ii. Art. 2; Summæ Suppl. Q. lxxxvii. Art. 3.

[2] S. Bonavent. in IV. Sentt. Dist. XVI. P. ii. Art. 3, Q. 2; Dist. XXI. P. 1, Art. 1, Q. 2.

[3] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 155, 156, 158.

[4] P. de Palude in IV. Sentt. Dist. XVII. Q. ii. Art. 1.

[5] Astesani Summæ Lib. v. Tit. iii. Q. 8, 9; Tit. IV. Art. 2, Q. 3.

[6] Manip. Curator. P. II. Tract. iii. cap. 5.—Summa Pisanella s. v. *Peccatum* III. § 7.—Epist. Synod. Guillel. Episc. Cadurcens. ann. 1325, cap. 13 (Martene Thesaur. IV. 692).—Passavanti, Lo Specchio, Dist. v. cap. vii.—Weigel Clavic. Indulgentialis cap. xvii.—Dom. Soto in IV. Sentt. Dist. XVIII. Q. iv. Art. 1.

of repentance.[1] Of this a very slight degree suffices; there are some authorities who hold that habitual displeasure only is needed, while others argue that virtual displeasure is requisite, but this latter only means that if the sinner happened to think of the sin he would regret having committed it.[2] The rigorist Juenin, however, requires contrition and argues that unless there is contrition for venials there can be no absolution for mortals.[3] This suggests the converse—whether a man in mortal sin can obtain remission of venials—a question of no practical moment, but which has excited endless debate, of course without possibility of settlement. "Famosa est, insignis et perdifficilis quæstio," in which the negative opinion is common, though the affirmative is held by high authorities.[4] As for the extra-sacramental remission of venials, Chiericato tells us that it is effected by the six sacramentals—the Lord's Prayer, holy water, the Paschal Lamb and other blessed food, the general confession in the mass, almsgiving and the episcopal benediction, as recited in the verse "Orans, tinctus, edens, confessus, dans, benedicens." Acts of Christian virtue, of faith, charity, mercy, temperance, prayer, also suffice, and so does attrition, although there are some who deny it.[5] Tournely specifies the sacramentals and servile attrition; Liguori explains that the sacramentals effect the result by exciting sorrow and pious emotions which lead God to pardon sin, and this I presume may be regarded as the prevailing opinion at present.[6]

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[1] C. Trident. Sess. XIV. De Pœnit. cap. 5.—Catech. Trident. De Pœnit. cap. 4.

[2] Caietani Tract. IV. De Contritione etc. Q. 2.—Zerola Tract. de Jubilæo cap. XV. Dub. 10.—Estii in IV. Sentt. Dist. XVI. Q. 3.—Th. ex Charmes Theol. Univ. Diss. V. cap. iii. Q. 1.

[3] Juenin de Sacramentis Diss. VI. Q. iv. cap. 2, art. 5, § 2.

[4] M. Becani de Sacramentis Tract. II. P. iii. cap. 32, Q. 7.—Clericati de Pœnit. Decis. XXXIII. n. 16–17.

[5] Clericati de Pœnit. Decis. XXXIII. n. 14–15.

[6] Tournely de Sacr. Pœnit. Q. XI. Art. 2.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 2, 92.—Mig. Sanchez Prontuario de la Teol. Moral, Trat. XIV. Punto ii. § 1.—Marc Institt. Moral. Alphonsianæ n. 1441.

The Catechism of the council of Baltimore (pp. 51–2) defines a sacramental as "anything set apart as blessed by the Church to excite good thoughts and increase devotion, and through these movements of the heart to remit venial sin." The chief sacramental is the sign of the cross, next to it comes holy water, and then "blessed candles, ashes, palms, crucifixes, images of the Blessed Virgin and of the saints, rosaries and scapulars."

The confession of venial sins has given rise to several questions, involving long debate and varying practice. As they could be so readily pardoned and did not require reconciliation or absolution, it would seem that their confession must be wholly superfluous, though it might be a wholesome moral exercise. Before the sacramental theory had been developed, Hugh of St. Victor says that we should confess our lighter sins to each other, when they are remitted by our mutual prayers.[1] Peter Lombard holds that they should be confessed like the rest, and in this he is followed by Alain de Lille.[2] The Lateran canon was not absolute on the subject, and S. Ramon de Peñafort says that it is not decided whether venials should be confessed to the priest, but the safest rule is to do so.[3] Alexander Hales discusses the subject with a fulness which shows that it was not a little intricate. He admits that venials are not included in the Lateran precept, because they can be remitted by repentance and in many other ways; by this time the sacramental theory had been fully developed, and it was not easy to see how the sacrament could be applied to venials already remitted by the contrition or attrition required for the validity of the sacrament itself, but Hales argues that in some undefined way the power of the keys reduces the punishment, though there could be no punishment for the venials after their remission. He is less unreasonable in adding that it serves to guard against lapse in mortals and purifies the soul.[4] Cardinal Henry of Susa holds that their confession to the priest is unnecessary, though some think it to be so; Aquinas agrees with him, adding that confession to laymen suffices, and Bonaventura says sacramental confession is not of precept, though advisable and beneficial.[5]

In all this several questions were involved, the settlement of which required considerable debate. One of these was, if venials are to be confessed, to whom should the confession be made? Aquinas, as we

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[1] Hugon. de S. Victore de Sacramentis Lib. II. P. xiv. cap. 1.

[2] P. Lombard. Sentt. Lib. IV. Dist. XVI. § 4.—Alani de Insulis Lib. Pœnit. (Migne, CCX. 288, 302).

[3] S. Raymundi Summæ Lib. III. Tit xxxiv § 4.

[4] Alex. de Ales Summæ P. IV. Q. XVIII. Membr. iv. Art. 2 § 5.

[5] Hostiens. Aureæ Summæ Lib. v. De Pœn. et Remiss. § 8.—S. Th. Aquinat. Summæ Suppl. Q. VIII. Art. 3.—S. Bonavent. in IV. Sentt. Dist. XVII. P. ii. Art. 2, Q. 1.

have just seen, suggests a layman, but with the gradual disappearance of sacramental confession to laymen this naturally became obsolete. It was suggested that confession could be made to a priest not licensed to hear confessions, and Caietano argued that as no one is obliged to confess venials there is no jurisdiction over them, and a penitent desiring to do so can confess them to a simple priest, whose ordination then enables him to absolve for them.[1] This would seem unanswerable, but there must have been dread of abuses thence arising, for Innocent XI., in 1679, issued a decree pronouncing that simple priests cannot absolve for venials.[2] This appears conclusive but Liguori assures us that although it renders such sacraments unlawful, the universal opinion is that they are valid.[3]

More important and more difficult to settle was the question whether the Lateran canon included a precept to confess venials. It required all sins to be confessed annually, without specifying mortal sins only, but it was manifestly impossible for the penitent to remember and confess all the trivial offences which he might have committed during a twelvemonth, especially as their remission was so readily obtained during the year by simpler means. Moreover, if they were not covered by the precept, was a man, conscious of no mortal sin, required to make any annual confession? These were enigmas which provoked endless contrariety of opinion. We have seen (I. p 238) the opinions of Alexander Hales and Aquinas on these subjects, and that the latter held that confession of venials is not required by the sacrament, but it is by the precept, and this can be fulfilled by the penitent presenting himself annually to his priest and showing that he has no mortals, when this will stand in lieu of confession.[4] This happy device was largely recommended by subsequent authorities, but was not universally adopted. In 1287 the synod of Liége holds that venials must be confessed, but it suffices if this is done in the lump.[5] John of Freiburg says that, in the absence of mortals, they are included in the precept, though some doctors hold that it suffices to present oneself to the priest.[6] Astesanus con-

[1] Caietani Opusc. Tract. viii.
[2] Ferraris Prompta Biblioth. s. v. *Absolutio* I. n. 62.
[3] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 543.
[4] S. Th. Aquin. Summæ Suppl. Q. VI. Art. 3.
[5] Statut. Synod. Leodiens. ann. 1287, cap. 4 (Hartzheim III. 686).
[6] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 150.

siders that the precept does not include them, though some say that they must be confessed in the absence of mortals, and others that appearance before the priest suffices.[1] Richard Middleton insists on their confession if necessary to fulfil the precept, for which his fellow Franciscan, William of Ware, relying on the authority of Duns Scotus, vituperates him roundly.[2] Pierre de la Palu says that it suffices for the parishioner to tell the priest that he has no mortal sins and that he desires to confess venials.[3] Guido de Monteroquer rather hesitatingly insists on their confession in the absence of mortals; Passavanti says that venials are not material for confession, but to confess them is laudable and has its effect, while John Myrc gives a complete series of interrogatories for venials and even prescribes penance for them—

For lasse synnes venyal
Lasse penaunce geve thow schal.[4]

In the latter half of the fifteenth century Robert of Aquino says that the precept requires the confession of venials in the absence of mortals, Angiolo de Chivassa denies it, but suggests a general confession of all sins committed and forgotten, and St. Antonino leaves the question open.[5] Caietano mentions both opinions and characterizes the former as the safer and the latter as the truer one.[6] Domingo Soto alludes to the dispute and inclines to the negative side.[7] The council of Trent threw no light on the subject other than the general remark that venials need not be confessed, though it is profitable to do so and heretical to deny that they may be confessed.[8] The debate therefore went on. Martin van der Beek holds it to be a precept of natural law for a man to present himself to his priest and announce the absence of mortals, for he thus avoids scandal and

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[1] Astesani Summæ Lib. v. Tit. iii. Q. 8; Tit. x. Art. 2, Q. 4; Tit. xii. Q. 3.

[2] Vorrillong in IV. Sentt. Dist. xvii.

[3] P. de Palude in IV. Sentt. Dist. xvii. Q. iv. Art. 3.

[4] Manip. Curator. P. ii. Tract. iii. cap. 2.—Passavanti, Lo Specchio, Lib. v. cap. vii.—John Myrc's Instructions for Parish Priests, 1415–1510, 1756–7.

[5] Rob. Episc. Aquinat. Opus Quadrages. Serm. xxvii. cap. 3.—Summa Angelica s. vv. *Confessio* i. § 28; *Interrogationes*.—S. Antonini Summæ P. iii. Tit. xiv. cap. 19, § 14.

[6] Caietani Opusc. Tract. v. *De Confessione* Q. 1.

[7] Dom. Soto in IV. Sentt. Dist. xviii. Q. 1, Art. 3.

[8] C. Trident. Sess. xiv. De Pœnit. cap. 5; can. vii.

prevents trouble for himself when the lists are made up for the bishop.[1] Diana and Laymann tell us that the precept does not require the confession of venials in the absence of mortals, while Juenin affirms the settled practice of the Gallican Church to be that it does.[2] In this, as in so much else, the laxer view has prevailed and the more recent authorities seem unanimous in regarding the precept as not requiring in any case the confession of venials, though it is recommended as a salutary practice, and even the necessity of the parishioner presenting himself to his priest at Easter is denied.[3]

Subsidiary to this is a question, rather scholastic than practical, whether either the Church or the pope has power to require the confession of venials. This seems to have been started by Pierre de la Palu, who argued that Christ decreed that venials are not material for the sacrament, since they can be remitted in so many other ways, and the Church cannot modify the decrees of Christ. On the other hand was alleged the canon of the council of Vienne in 1312 requiring monthly confession of the Benedictines, and it is not to be supposed that holy men will commit mortal sins every month. I do not know that the abstract question involved has ever been determined, but there would seem no doubt that the several religious orders can prescribe frequent confession which must naturally for the most part consist solely of venials,[4] and when the synod of Pistoia reprobated the custom of frequent confession of venials as tending to bring the sacrament into contempt, Pius VI. condemned the utterance as rash, pernicious and contrary to the practice of the Church and the council of Trent.[5]

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[1] M. Becani de Sacramentis Tract. II. P. iii. cap. 36, Q. 6, n. 4.

[2] Summa Diana s. v. *Confessionis necessitas* n. 1–4.—Layman Theol. Moral. Lib. VI. Tract. vi. cap. 5, n. 12.—Juenin de Sacramentis Diss. VI. Q. 5, cap. 3, Art. 2.

[3] Clericati de Pœnit. Decis. XXXIII. n. 2.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 667.—Varceno Comp. Theol. Moral. Tract. XVIII. cap. iv. Art. 2.—Bruno, Catholic Belief, pp. 300–1.

The rigorist school, however, long maintained the necessity of the parishioner showing himself to his priest.—Piselli Summæ Theol. Moral. P. I. Tract. xiv. cap. 6.

[4] P. de Palude in IV. Sentt. Dist. XVII. Q. ii. Art. 4.—Cap. 1 § 2 Clement. Lib. III. Tit. x.—S. Antonini Summæ P. III. Tit. xiv. cap. 19, § 14.—Summa Angelica s. v. *Confessio* I. § 28.—Clericati de Pœnit. Decis. XXXII. n. 3, 4; Decis. XLIX. n. 7.—Layman Theol. Moral. Lib. VI. Tract. vi. cap. 5, n. 12.

[5] Pii PP. VI. Bull. *Auctorem fidei*, Prop. XXXIX.—S. Carlo Borromeo never

When Pierre de la Palu asserted that mortals and not venials are material for the sacrament he suggested a question to which the answer is not easy—what is effected for venials by confession and absolution, and how is it effected? The sacrament is for the purpose of restoring the grace of God to souls that have lost it, but venials do not affect the state of grace and do not require reconciliation. The council of Trent offers no explanation, and although it says that the confession of venials is beneficial, by inference it denies their absolution by the priest, whose ministration is described as devoted to mortals.[1] The most recent treatise on the sacrament tells us that venials are not sins that can be retained by either God or the priest, so that the text *quorum retinueritis* does not apply to them; he who has only venials is in grace and has a right to heaven of which he cannot be deprived.[2] How venials thus can be material for absolution, when the penitent has both them and mortals, and the attrition which validates the absolution removes entirely the venials, is a question on which the theologians find agreement difficult, and which they rather evade than solve by a cloud of subtile distinctions.[3] Still, as sinners are urged to confess their venials, it becomes necessary to show that this is not in vain. Astesanus declares rather vaguely that the punishment is thus diminished by the power of the keys, while the general confession in the mass remits them, not by the keys, but through the contrition of the penitent, the humility of the confession and the prayer of the priest.[4] This scarce sufficed, and it was finally agreed that venials are material for the sacrament, the trouble being evaded by calling them *materia mere sufficiens* or *materia libera* and not *materia necessaria*, and that they are remitted by it.[5]

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celebrated mass without first confessing his sins, even to the most venial, and Cardinal Pierre de Bérulle imitated his example. Yet Juenin (De Sacram. Diss. VI. Q. iv. cap. 2, Art. 5, § 2) warns those who confess their venials three or four times a week that they gain nothing thereby if it is done as a matter of pride or of leading an easier life by not correcting their faults.

[1] C. Trident. Sess. XIV. De Pœnit. cap. 5.

[2] Palmieri Tract. de Pœnit. pp. 104–5.

[3] Clericati de Pœnit. Decis. XXXIII. n. 5–10.

[4] Astesani Summæ Lib. V. Tit. xii. Q. 3; Tit. xix. Q. 5.

[5] Dom. Soto in IV. Sentt. Dist. XVIII. Q. 1, Art. 3.—Juenin de Sacramentis Diss. VI. Q. 5, cap. 3, art. 1.—Benzi Praxis Trib. Conscient. Disp. I. Q. ii. Par. 2, n. 15, 16.—Tournely de Sacr. Pœnit. Q. XI. Art. ii.—Mig. Sanchez,

Below the class of venial sins come what are called imperfections, though it is not easy for the non-theological mind to differentiate them. To be angry with children or servants negligent of their duties, to eat and drink unnecessarily, to be over-anxious about the affairs of others, to lie habitually etc. are ranked as imperfections, and Gobat tells us that some high authorities hold a confessor reprehensible who permits such things to be recited in confession, for the matter of the sacrament is sin, and these are not sins, and therefore should be excluded. He thinks, however, that there is no objection to the confessor listening to such things if he is willing.[1]

In view of the insurmountable difficulty of differentiating mortals and venials, it is no wonder that the subject of doubtful sins has called for earnest attention, with the natural result of arousing endless discussion and no little difference of opinion. The practical question involved is whether doubtful sins are included in the precept of confession and require to be confessed. As this is a matter of daily occurrence, one might suppose that it would have been settled as soon as enforced confession became habitual, and that an unvarying custom would have been handed down by tradition, but such has not been the case.

Doubtful sins are divided into three classes—those in which the doubt is as to their being mortal or venial, those which the penitent is not sure that he has committed, and those which he knows to have been committed, but doubts whether he has confessed.

As regards the first class there was originally no question. Alexander Hales says that all doubtful sins are to be interpreted as mortal, are to be confessed as such, and penance for them is to be accepted.[2] Aquinas argues that if a man doubts whether a sin is mortal or venial, he sins mortally in exposing himself to the risk, and it is mortal to neglect to confess what is doubtful; he may confess it as

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Prontuario de la Teol. Moral. Trat. VI. Punto iv.—Varceno Comp. Theol. Moral. Tract. XVIII. cap. iv. art. 2.

A formula of absolution current in the fifteenth century includes venials—"Absolvo te ab omnibus peccatis tuis confessis et oblitis, mortalibus et venialibus, et circumstantiis eorum."—Bart. de Chaimis Interrog. fol. 108.

[1] Gobat Alphab. Confessarior. n. 504–13.

[2] Alex. de Ales Summæ P. II. Q. CXVIII. Membr. 1, Art. 4.

doubtful and await the judgment of the confessor.[1] This long continued to be the universal rule. It is true that Prierias, early in the sixteenth century, says that when there is a reasonable doubt whether a sin is mortal a man is not bound to confess it, and if he thinks the doubt reasonable he is not called upon to discuss it,[2] but this seems to have attracted little attention, and the opinion of Aquinas is accepted not only by the medieval doctors, but even by the earlier probabilists in the commencement of the seventeenth century; in fact, Tomás Sanchez says that it is the universal opinion of all doctors, ancient and modern, but he adds that when it is not doubt but opinion, the penitent can follow the less probable opinion and refuse to confess.[3] It was not until about 1625 that this traditional doctrine was fully questioned. Apparently Köninck was the first theologian of eminence to argue that doubtful sins need not be confessed, for Laymann soon afterwards, in discussing the matter, cites only him as supporting it; for himself he hesitates at abandoning the view hitherto accepted by all the faithful, and the most he will say is that the new opinion is probable, and he leaves it for the decision of others.[4] Probabilism now was mixing itself up with almost all questions connected with the confessional and was modifying the ancient standards. There were convenient vaguenesses; doubt and opinion might mean the same or might be distinct, and the suggestion of Tomás Sanchez pointed out the line of least resistance for the new doctrine. About this time Alphonso de Leone tells us that a penitent with a probable opinion that a sin is venial need not confess it, though the more probable opinion is that it is

[1] S. Th. Aquinat. in IV. Sentt. Dist. XXI. Q. ii. Art. 3 ad 3; Summæ Suppl. Q. VI. Art. 3 ad 3.

[2] Summa Sylvestrina s. v. *Confessio Sacram.* II. § 3.

[3] Astesani Summæ Lib. V. Tit xi. Q. 3.—Jo. Nider Præceptorium, Præcept. III. cap. ix.—S. Antonini Summæ P. III. Tit. xvii. cap. 18; Tit. xiv. cap. 19, § 7.—Pet. Hieremiæ Sermones, De Pœnit. Serm. xviii.; Quadragesimale, Serm. xxii.—Somma Pacifica, cap. 4.—Summa Angelica s. v. *Confessio* I. § 28.—Somma Rosella s. v. *Confess. Sacram.* I. § 12.—Caietani Summula s. v. *Confessio.*—Summa Sylvestrina s. v. *Confess. Sacram.* I. § 14.—Summa Tabiena s. v. *Confessio* II. § 11.—Martini de Frias de Arte audiendi Confessiones, fol. xliii.*a.*—Armilla Aurea s. v. *Confessio* § 22.—Dom. Soto in IV. Sentt. Dist. XVIII. Q. ii. Art. 4.—Henriquez Summæ Theol. Moral. Lib. V. cap. iv. n. 5.—Sayri Clavis Regia Sacerd. cap. xiii. n. 4.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. X. n. 67, 75-6.

[4] Layman Theol. Moral. Lib. I. Tract. 1, cap. 4, § 37.

mortal.[1] Soon after this Marchant endeavors to reconcile the old and new theories; if the doubt as to the grade of the sin is antecedent, to commit it is mortal, but if subsequent there is no sin, under the rules as to ignorance and advertence, and it need not be confessed—though he subsequently contradicts himself and says that it must be confessed.[2] The new doctrine evidently was not warmly received; even Busenbaum says that the authorities are against Köninck in the matter, and that doubtful sins should be confessed as doubtful.[3] Then Caramuel, one of the most redoubtable theologians of the age, entered the lists. He argued the question with a prolixity showing that it was a novelty attracting much attention, and his references to contemporaries indicate that the new view was winning its way in spite of opposition. After exhausting all subtile distinctions as to kinds of doubt, and confusing the subject as much as possible, he reaches the conclusion that absolution requires material that is certain; if a man is uncertain whether a theft is mortal or not, he is not a subject for absolution.[4] Soon afterwards Tamburini says that while he had thought it true that there is no obligation to confess doubtful sins, the practice had always been otherwise, but the recent opinions of Köninck, Marchant, Caramuel and others have wrought a change; the opinion that such sins need not be confessed has been adopted by the Society of Jesus and can now be taught by the schools.[5]

The matter was one which refused to be settled. Of course the rigorist school denied that doubtful sins could be withheld from confession, and it held fast to the ancient rules.[6] Moderate writers said that the point was in dispute, but that the safer course lay in confession.[7] Even among the Jesuit probabilists there was not unanimity. Arsdekin holds that there is no obligation, but that it is not as yet

[1] Alph. de Leone de Off. et Potest. Confessarii Recoll. II. n. 212, 215.

[2] Marchant Trib. Animar. Tom. I. Tract. IV. Tit. vi. Q. 5; Tract. V. Q. 4, Concl. 2; Q. 5, Concl. 3, 6.

[3] Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. Cap. 1, Dub. 3, Art. 1, n. 7.

[4] Caramuelis Theol. Fundam. n. 1896.

[5] Tamburini Method. Confess. Lib. II. cap. 1, n. 16, 17.

[6] Summæ Alexandrinæ T. I. n. 464.—Alasia Theol. Moral. De Sacr. Pœnit. cap. V. § 1, Q. 6.—Manzo Epit. Theol. Moral. P. I. De Pœnit. n. 12.

[7] Clericati de Pœnit. Dist. XXIV. n. 19.—Cabrini Elucidar. Casuum Reservat. P. I. Recoll. 12.

sufficiently settled to be positively taught, while Viva teaches it positively.[1] La Croix tells us that authority is on the side of the obligation, but that intrinsic reasons render the opposite more probable.[2] Herzig says the common opinion is that when there is positive doubt sins need not be confessed; when the doubt is negative, opinions are divided and either is probable, while Benzi agrees with him as to the former, but as to the latter holds that they should be confessed.[3] Sporer and Reiffensteuel assert that doubtful sins are to be confessed as doubtful.[4] In this uncertainty Liguori, as is his wont, leans to the laxer side and makes the somewhat remarkable assertion that, except among the rigorists, the opinion is almost universal that doubtful sins need not be confessed.[5] Liguori's supreme authority has rendered this the doctrine of the reigning schools of probabilists and equi-probabilists, and it may be regarded as the received teaching of the Church of to-day, though it is admitted to be wiser and more pious to confess such sins.[6] Among the writers whom I have consulted Gousset is the only one who expresses doubt on the subject, and Miguel Sanchez the only one who says that such sins must be confessed.[7] Yet the slender confidence felt in the laxer teaching, even by those who profess it, is seen in the general consensus of opinion that on the death-bed doubtful sins should always be reckoned as mortal, in view of the risk of that awful moment.[8]

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[1] Arsdekin Theol. Tripart. P. III. Tract. 1, Cap. 1, Princip. 6; Cap. 3, Q. 18.—Viva Cursus Theol. Moral. P. VI. Q. ii. Art. 2, n. 8.

[2] La Croix Theol. Moral. Lib. VI. P. ii. n. 607–9.

[3] Herzig Man. Confessar. P. I. n. 54.—Benzi Praxis Trib. Conscient. Disp. I. Q. ii. Par. 2, n. 3.

The distinction between positive and negative doubt is not defined with absolute uniformity, but in general it is assumed that doubt is positive when there are probable reasons on either side, and negative when there are none on either.

[4] Sporer Theol. Moral. P. III. n. 392–5.—Reiffensteuel Theol. Moral. Tract. XIV. Diss. vii. n. 54.

[5] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 473.

[6] Stapf Epit. Theol. Moral. § 428, n. 5.—Scavini Theol. Moral. Tract. X. Disp. 1, Cap. 2, Art. 2 § 3, N. 1, Q. 5.—Zenner Instruct. Pract. Confessar. § 72. —Bonal Institt. Theol. T. IV. n. 235.—Pruner Moraltheologie, p. 50 (Freiburg i. B. 1883).—Marc Institt. Moral. Alphonsianæ n. 1695.

[7] Gousset, Théologie Morale II. n. 426.—Mig. Sanchez, Prontuario de la Teol. Moral, Trat. VI. Punto 5, n. 4.

[8] Th. Sanchez in Præcepta Decalogi Lib. I. cap. X. n. 64.—Caramuel Theol.

When the existing doubt is as to the commission of a sin, there has been similar dissidence of opinion. Domingo Soto, Tomás Sanchez, Sporer and Reiffensteuel say that confession must be made.[1] The leading school of probabilists, on the other hand, deny the necessity.[2]

When the doubt is as to the previous confession of a sin the more general opinion has been that the safer course must be followed and that it must be confessed.[3] The distinction between doubt and opinion was however invoked here also in favor of laxity, and the probabilists held that when there was a probable opinion as to the previous confession, the sin need not be confessed, while Reiffensteuel agrees with them if the sinner has grave reason to believe that he has already confessed.[4] The uncertainty which pervades all speculations and rules in this matter is illustrated by Liguori, for at one time he held with Caramuel and Tamburini, but subsequently changed his views and argued that as the obligation to confess is certain, there must be certainty of the confession.[5] Recent authorities seem generally to agree with this view, though Bonal tells us that the probabilists deny the necessity, and Gury draws a distinction between positive and negative doubt—in the latter case the obligation exists, in the former common opinion denies it.[6] It is, however, regarded as better and safer to confess.

Fundam. n. 1886, 1901.—Tamburini Method. Confess. Lib. II. cap. 1, n. 11.—S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 473.—Stapf Epit. Theol. Moral. § 428, n. 5.—Marc Institt. Moral. Alphons. n. 1695.

[1] Dom. Soto in IV. Sentt. Dist. XVIII. Q. ii. Art. 4, Concl. 3.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. ix. n. 68.—Sporer Theol. Moral. P. III. n. 395.—Reiffensteuel Theol. Moral. Tract. XIV. Diss. vii. n. 55.

[2] Marchant Trib. Animar. Tom. I. Tract. IV. Tit. vi. Q. 5.—Bonal Institt. Theol. Tom. IV. n. 233.—Marc Institt. Moral. Alphons. n. 1695.

[3] Azpilcuetæ Comment. cap. *Si quis* n. 77.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. x. n. 71, 72.—Marchant Trib. Animat. Tom. I. Tract. V. Tit. iv. Q. 2.—Arsdekin Theol. Tripart.. P. III. Tract. 1, Cap. 1, Princip. 6.—Sporer Theol. Moral. P. III. n. 386–7.—Voit Theol. Moral. I. 52.

[4] Th. Sanchez in Præcepta Decal. Lib. I. cap. x. n. 75–6.—Caramuelis Theol. Fundam. n. 1885.—Tamburini Method. Confess. Lib. I. cap. 1, n. 9.—Reiffensteuel Theol. Moral. Tract. XIV. Dist. vii. n. 55.

[5] S. Alph. de Ligorio Theol. Moral. Q. xvi. (Ed. 1767, p. viii.). Cf. Lib. VI. n. 477.

[6] Stapf Epit. Theol. Moral. § 428, n. 5.—Scavini Theol. Moral. Tract. X. Disp. I. cap. 2, Art. 2, § 3, N. 1, Q. 5.—Zenner Instruct. Pract. Confessar. § 72.

There is still another class of sins that has to be provided for—those which escape the memory of the penitent after the due and diligent examination which he is required to make as a preliminary to confession. As the precept requires only annual confession, and as the category of mortal sins has been so vastly extended, these forgotten sins must necessarily be numerous, when confession is not frequent. An experienced confessor tells us that those most likely to be thus forgotten are the sins of the tongue, of the heart, and of omission, the first comprising all ill-natured words, detraction and scandal; the second all evil desires and wishes; the third all duties negligently performed or omitted, whether of prelates, priests, judges, lawyers, doctors, parents, etc.[1] The Church promises absolution from all sins for an honest, heartfelt confession, and unless these forgotten sins are included in the absolution it is worthless, for it cannot be partial. It is true that to include them nullifies the theory of confession, which is that the confessor must know all the sins of the penitent before he can sit in judgment on them and remit them by the power of the keys, but there is no alternative. The theory has to yield to the necessities of the case, as otherwise there would be few souls rescued from hell.

The earliest attempt to solve the difficulty was by assuming that forgotten sins, like venials, are remitted by the general confession and deprecatory absolution in the mass.[2] Peter Lombard admitted this and was followed by S. Ramon de Peñafort, Alexander Hales and Cardinal Henry of Susa, showing that this was the explanation generally accepted, although Hales protests that forgetfulness only deepens the guilt of sin.[3] Aquinas did not dissent from this, but insisted more strongly than his predecessors on the necessity of contrition for forgotten as well as for remembered sins, which cast con-

—Mig. Sanchez, Prontuario Teol. Moral, Trat. VI. Punto 5, § 4.—Marc Institt. Moral. Alphons. n. 1695.—Bonal Institt. Theol. T. IV. n. 237.—Gury Comp. Theol. Moral. II. n. 479.

[1] Clericati de Pœnit. Decis. XXI. n. 12–14.

[2] Honor. Augustodun. Speculum Ecclesiæ; De Nativitate Domini (Migne, CLXXII. 842, 847).

[3] P. Lombard. Sentt. Lib. IV. Dist xxi. § 5.—S. Raymundi Summæ Lib. III. Tit. xxxiv. § 4.—Alex. de Ales Summæ P. IV. Q. XVII. Membr. ii. Art. 8; Q. XVIII. Membr. 4, Art. 1, § 6.—Hostiens. Aureæ Summæ Lib. V. De Pœn. et Remiss. § 8. Lombard also says that the psalm *Miserere* has the power to remit forgotten sins.

siderable doubt over the remission by the general confession.[1] John of Freiburg indicates a tendency to depart from the theory which had reigned for a century and a half, for he says that general repentance suffices for forgotten sins,[2] while the treatment of the subject by Astesanus shows that it was beginning to attract more attention, and that difficulties were recognized in it, rendering it more complex than the earlier doctors had supposed. He holds that if the forgetfulness has arisen through negligence it impedes justification, and he transfers the remission of forgotten sins to the priest, to whom a general confession of them must be made, when they will be included in the absolution.[3] This innovation was long in obtaining general recognition. Pierre de la Palu rejected it and Durand de S. Pourçain only makes the concession that if forgotten sins, remitted by the ritualistic confession in the mass and at prime and complins, are subsequently remembered they must be confessed to the priest.[4] This latter suggestion seems reasonable at first sight, but it produced the anomaly of sins that were pardoned and yet not pardoned, and some doctors endeavored to meet it by the more logical but impracticably rigorous assumption that if a forgotten sin is remembered the whole confession must be repeated, because it was invalid through imperfection.[5] The main question remained long in suspense. In 1353 Passavanti adheres to the old practice and classes forgotten sins with venials, as remitted in the general non-sacramental confession of the ritual,[6] but the final triumph of the sacramental theory is shown in the

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[1] S. Th. Aquinat. Summæ Suppl. Q. II. Art. 3; Q. X. Art. 5.

[2] Jo. Friburgens. Summæ Confessor. Lib. III. Tit. xxxiv. Q. 147.

[3] Astesani Summæ Lib. v. Tit. iii. Q. 6; Tit. xix. Q. 3.

[4] P. de Palude in IV. Sentt. Dist. XVII. Q. ii. Art. 1.—Durand. de S. Porciano in IV. Sentt. Dist. XXI. Q. iii. §§ 4, 6, 7.

[5] Manip. Curator. P. II. Tract. iii. cap. 7.

[6] Lo Specchio della vera Penitenza Dist. v. cap. 7. The increased stress laid on forgotten sins is shown in the elaborate discussion by John Nider (Præceptorium, Præcept. III. cap. 8) on the contrition due for them and for the negligence shown in forgetting them.

The uncertainty existing with regard to them is illustrated by a tablet in the church of S. Maria in Stellis, in Verona, reciting that when Urban III. in 1187, dedicated the church he granted for the anniversary an indulgence *a pœna et a culpa* for all forgotten sins (Amort de Indulgentiis I. 128). The indulgence is a self-evident forgery, but it reflects the conceptions of its date, which is probably the fifteenth century.

Summa Pisanella. Written in 1338 it adheres to the old practice, quoting S. Ramon de Peñafort and Pierre de la Palu, but its commentator, Niccolò da Osimo, in 1443, explains that the general confession alluded to means general confession to the priest, who alone can absolve for mortal sins.[1]

After this the matter may be considered as settled and as no longer a subject for discussion. Indeed, as we have seen (I. p. 487) the absolution formulas of this period specially include forgotten sins,[2] and St. Antonino advises the penitent to add to his confession "I say *mea culpa* for all other venials and mortals, confessed and not confessed," when the absolution will cover them all. He preserves the anomaly, moreover, of requiring them to be confessed subsequently, if remembered, though the whole confession need not be repeated.[3] Finally, if any doubt remained as to the question, it was removed by the declaration of the council of Trent that a confession is held to include all sins which diligent self-examination may fail to recall.[4] Whether such sins must be confessed if subsequently remembered remained a subject of debate until 1665, when Alexander VII. formally condemned the proposition that it is unnecessary to do so, and as late as 1700 the assembly of the Gallican clergy was obliged to repeat the condemnation.[5] This has remained the rule of the Church, and it is explained that while such sins are truly remitted, on the ground of the good faith of the penitent, and while they no longer rest upon the soul, yet there is the obligation of submitting them to the keys if subsequently remembered, even though the abso-

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[1] Summa Pisanella s. v. *Peccatum* I. § 11.

[2] This clause would seem to have maintained its place stubbornly, for about 1600 Bishop Zerola (Praxis Sacr. Pœnit. cap. xxiv. Q. 6) instructs the priest not to use it, because forgotten sins are not absolved formally and actually, but virtually and consecutively, or as Benzi phrases it, indirectly (Praxis Trib. Conscient. Disp. I. Q. ii. Art. 1, Par. 1, n. 14).

[3] S. Antonini Summæ P. III. Tit. xiv. cap. 19, § 5; Tit. xvii. cap. 21, § 1. The Summa Angelica (s. v. *Interrogationes*) gives a more elaborate formula of confession—"I say *mea culpa* for all my mortal sins which I do not know or have forgotten and have not legitimately confessed through ignorance or negligence."

[4] C. Trident. Sess. XIV. De Pœnit. cap. 5.

[5] Alex. PP. VII. Decr. 7 Sept. 1665, Prop. XI.—Tournely de Sacr. Pœnit. Q. VI. Art. iv.

lution has been given under the authority of the plenary indulgence of the Cruzada and the Jubilee.[1]

Of course this rests on the proper scrutiny of the conscience prior to confession, and in modern times this is duly insisted upon. In the laxity which preceded the Reformation, Prierias treats the subject rather contemptuously. To forget a mortal sin in confession is not a mortal sin, nor is a man bound to take pains to remember; he would be obliged to carry writing materials with him and keep a record, which is absurd.[2] Even after the Tridentine decree requiring diligent self-investigation, Diana, in the seventeenth century, is nearly as lax; no man can be expected to remember all his sins for a year, and he is therefore only held to confess such as he can recall after proper examination.[3] What this proper self-interrogation should be is, of course, incapable of definition; it necessarily gives rise to considerable latitude of discussion, as well as the degree of culpability involved in negligence and its effect in rendering confessions invalid through imperfection.[4] The cure for the trouble is frequent confession, and this is consistently urged by the Church, but the obligation of confessing oftener than once a year, in order to escape the moral certainty of forgetfulness, is a matter earnestly disputed between the rigorists and the laxists.[5] For a penitent to make a memorandum of his sins, so as not to forget them, is not forbidden, but is not to be encouraged, because nearly all penitents would do so, and this would lead to written confessions.[6]

In considering as a whole this elaborate system, built up with such infinite labor by successive generations of keen and specially trained intellects, one is led to ask what is the real weight attaching

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[1] Varceno Comp. Theol. Moral. Tract. XVIII. cap. iv. Art. 2.—Sanchez Expositio Bullæ Sanctæ Cruciatæ, p. 168.—Viva de Jubilæo, pp. 142–7 (Ed. 1750).—For some of the doubtful questions arising under the rule see Gury, *Casus Conscientiæ* II. 471–77.

[2] Summa Sylvestrina s. v. *Confess. sacram.* I. § 3.

[3] Summa Diana s. v. *Confessionis necessitas* n. 6.

[4] Clericati de Pœnit. Decis. XIX. n. 15.—Tournely de Sacr. Pœnit. Q. VI. Art. ii.—Benzi Praxis Trib. Conscient. Dist. I. Q. ii. Art. 1, Par. 1, n. 10.—Mig. Sanchez, Prontuario de la Teol. Moral, Trat. VI. Punto 5, n. 8.—Gury Casus Conscient. I. 493–7.

[5] Concina Theol. Christiana contracta, Lib. XI. Dist. ii. Cap. 1.

[6] Clericati de Pœnit. Decis. XIX. n. 20–1.

to it—what is the importance attributed by those who administer it to these niceties of discrimination over which the theologians have struggled and debated for seven hundred years, which fill unnumbered folios, and which are so carefully set forth for the guidance of confessors and penitents. To this the only answer would seem to be that, for the most part, it is practically labor wasted. Benedict XIV. puts the case of an ignorant rustic, confessing to a priest so ignorant that he does not know the difference between a mortal and a venial, or an ordinary and a reserved sin. He asks if the absolution is valid, and he answers in the affirmative. No other answer, in fact, is possible, for, as he says, the sacrament consists of matter, form and intention, and all these are present.[1] To deny its validity would be to overthrow the whole sacramental system. Moreover, Gury tells us that though the confessor is not infallible and may make mistakes, this is of no consequence to the penitent, whose only duty is blind obedience; so long as he obeys he is infallible and is free from all responsibility.[2] This reduces the whole matter to the lowest denomination. The ignorant and the learned confessor are on a level, the penitent has only to do what he is bid, and need not trouble himself about the errors of his ghostly father, for the sacrament works *ex opere operato*. This is the full fruitage of the completely developed sacramental theory. It would be bootless to ask why the schoolmen dwelt at such length on the qualities and the training requisite in the confessor and on the necessity of his probing to its inmost depths the heart of the penitent in order to render a just judgment, for it has become a matter of indifference how the sacrament is administered, seeing that it is equally efficient in the hands of the wise and of the foolish, of the pious and of the sinful.

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[1] Benedicti PP. XIV. Casus Conscientiæ Sept. 1739, cas. 1.—All authorities do not agree to this. Eisengrein, for instance, says positively (Confessionale, Cap. IV. Q. 12) that a confession made to a priest too ignorant to distinguish between mortals and venials is invalid and must be repeated; but if the ignorance only extends to those which are commonly misunderstood the confession is valid, for there is no one who can discriminate as to all sins.

[2] Gury Casus Conscientiæ I. 54.—"Confessarius revera non est infallibilis materialiter in sua dirigendi ratione; tu vera vero gaudebis infallibilitate ei obsequendo, cum Christus dixit apostolis seu sacerdotibus: *Qui vos audit me audit.* Igitur si forte materialiter dux tuus erraverit error ille tibi minime imputari potest."

CHAPTER XXI.

PROBABILISM AND CASUISTRY.

WE have seen incidentally how often the doctors differ on important points in the administration of the sacrament of penitence. In the confessional the priest holds the place of God, and is obliged to utter a decision on all matters submitted to him; his jurisdiction extends over every act of life, and decides not only the destiny of the soul but the legality of whatever the penitent may do or leave undone; no transaction is too complex, no social relation too delicate, to be withdrawn from his judgment, and on it may depend the future of the faithful both in this world and the next, for the Church assumes the direction of the lives as well as of the souls of its subjects. In these responsible and all-embracing duties, papal and conciliar decrees cover but a fraction of the cases on which the confessor must act, and even in these the application of general rules to special cases is mostly a task of extreme nicety, so that for the most part he must trust to the opinions of the experts who have exhaustively investigated law and morals and endeavored to reason out every possible contingency in the boundless intricacy of human thoughts and passions and actions. That the experts should not always have reached the same conclusions is inevitable, even in matters of mere speculation, but their functions are not merely speculative; they are required to apply their dialectic to the highly artificial and intricate rules of the Church and deduce practical instructions for guidance, thus multiplying infinitely the occasions of discord. There has therefore been ample opportunity for the exercise of ingenuity, more or less perverse; keen and subtle intellects have for centuries been at work with the ambition of overthrowing received opinions and establishing new ones, with small respect for the ethical considerations involved, until the so-called science of Moral Theology has become a mass of conflicting views, in which there is little that is not disputed. The system of sacramental confession and absolution infers that certainty shall be reached in every case, but certainty in these matters is the

attribute solely of the Omniscient; the priest may assume the place of God, but must rely on imperfect human intelligence, which is ever grasping blindly after certainty and never reaching it. When Lactantius was comparing the precision of Christian precepts with the vain and contradictory speculations of the philosophers, he little imagined how accurately his description of the latter would fit the modern development of casuistry, based on conjecture and opinion.[1] To the simple faith of the fourth century everything seemed clear, but when scholastic theology arose, its insane desire to investigate and demonstrate everything in accordance with the ecclesiastical system cast everything into doubt. Aquinas admits that in most things we cannot know the will of God, whence he draws the comforting assurance that in these things we are not required to conform our will to the divine will.[2] This acknowledgment of the hopelessness of the task prescribed by the Church instead of dampening the energies of the schoolmen only gave them wider licence of speculation, and as the centuries passed on the points in dispute multiplied without limit. The revolutionary movement of the sixteenth century lent an added stimulus to theologic disputation. The conflict with heresy gave to theology an interest and importance which it had never before possessed and drew into its service minds of singular ability which diversified their assaults on Protestantism with internal debates on every phase of morals, till certainty could scarce be said to exist anywhere. By the middle of the century Melchor Cano tells us that he must cease to write if he is to avoid stating what will be disputed by many; that where the doctors differ we should follow weight rather than numbers, and that when the most learned disagree the only refuge is to withhold assent to uncertainty.[3] Thus it was no longer a question as to the divine will, which was replaced by human opinion of greater or less authority, carrying with it more or less probability. His contemporary Azpilcueta deplores the disputatious mania of the schools, leading teachers and preachers and scholars to uphold what is false for the mere purpose of exhibiting their dexterity, not only

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[1] Nihil apud eos certi est, nihil quod a scientia veniat. Sed cum omnia conjecturis agantur, multa etiam diversa et varia proferantur.—Lactant. Divin. Institt. III. 27.

[2] S. Th. Aquinat. Summæ II. I. Q. xix. Art. 10 ad 1.

[3] M. Cani de Auctor. Doctor. Scholast. Lib. VIII. c. iii.; c. iv. Concl. 1.

misleading their auditors, but often blinding themselves to the truth and causing them to embrace what is false.[1]

Thus the process of complicating the science of morals and multiplying its uncertainties went on with constantly accelerating momentum. In 1600 one of the earliest probabilists, Carbone, in his cautious instructions as to the selection of opinions, complains of the many false ones that were current.[2] Early in the seventeenth century Tomás Sanchez boasts that every day arguments are found to disprove positions that were once regarded as impregnable, but he warns the less expert of the dangers of following opinions which perhaps they do not rightly understand or are unable properly to apply.[3] Not long afterwards Juan Sanchez shows us how these novelties were constantly springing up in the disputations of the schools, were taking shape and acquiring supporters, till they came to be recognized as entitled to respect;[4] while Valère Renaud declares that everything is in so unsettled a state that everyone must exercise his own judgment after weighing the circumstances of each case,[5] and Alphonso de Leone says that a probable opinion may at any time cease to be probable because of some new reason excogitated.[6] There was an attempt made to distinguish between speculative and practical opinions, but, as the speculative could always be reduced to practice in the confessional, the distinction was without a difference, and, in 1643, Marchant tells us that there were nearly as many conflicting opinions as there were canonists and legists, arising from different acceptations of words and interpretations of the laws.[7] In 1666 Gobat declares that daily experience showed that out of a hundred doubtful cases there was scarce one in which as many authorities could not be cited in the affirmative as in the negative.[8] Viva asserts that moderns as well as ancients are frequently hallu-

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[1] Azpilcuetæ Comment. Cap. *Si quis autem*, n. 44–47.

[2] Lud. Carbonis Summ. Summar. Casuum Conscient. Tom. I. P. I. Lib. 5, cap. 14.

[3] Th. Sanchez in Præcepta Decalogi Lib. I. c. ix. n. 6, 10.

[4] J. Sanchez Selecta de Sacramentis Disp. XLIV. n. 61.

[5] Reginald. Praxis Fori Pœnitent. *ad Lectorem.*

[6] Alph. de Leone de Off. et Potest. Confessar. Recoll. II. n. 102.

[7] Marchant Tribunal. Animarum T. I. Tract. V. Tit. 5, Q. 2, Concl. 2; Q. 5, Concl. 1.

[8] Gobat. Alphab. Confessar. n. 269.

cinated, for in morals men easily deceive themselves, since falsities seem often truer than the truth, whence it has passed into a proverb that there is no folly without its advocates, no foulness without its lovers; the censorship is not to be relied upon, for the censors often, through hesitation or connivance or negligence, do not do their duty.[1] Even the rigorist Wigandt argues that a man is not always required to choose the opinion which is safest, if it is not in accordance with reason or truth, for this would put a stop to the greater part of human business, for there is scarce any act or contract concerning which there is not a condemnatory opinion.[2] In fact, the council of Avignon, in 1725, remarks that usury alone gives rise to an infinite number of doubts beyond human capacity to remember and decide.[3] La Croix argues that moral certainty does not require unanimity of opinion, for otherwise there would be scarce anything certain, since there is almost always authority for the opposite,[4] and Voit asserts that in morals the certainty of truth is so difficult of attainment that we must be content with verisimilitude.[5] Liguori tells us that if a penitent were obliged to accept the opinions of his confessor there is hardly a theologian who could ever obtain absolution, for it could rarely happen that he could find a confessor holding the same opinions as his,[6] and Gury says that in morals there is scarce a single point on which the authorities are agreed.[7] There is, moreover, not only this chaos of argumentative opinion, but the Church has enchained the human conscience with such an infinity of laws and regulations, unrepealed and yet not certainly obsolete, that, as Bonal says, if their obligation depends on their existence or cessation the human will would be overwhelmed. Then, granting the existence or cessation of a law, so numerous are the cases of conscience in which the operation of the law is doubtful that the human will would be overwhelmed if it were necessary to perform all acts

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[1] Viva Comment. in Prop. XXVI. Alex. VII. n. 3, 4.

[2] Wigandt Tribunal. Confessar. Tract. II. Exam. iii. n. 9.

[3] C. Provin. Avenionens. ann. 1725, Tit. XLIV. c. 4 (Collect. Lacens. I. 577).

[4] La Croix Theol. Moral. Lib. I. n. 180.

[5] Voit Theol. Moral. I. 77. For the numerous editions of this work between 1754 and 1860 see De Backer IV. 737.

[6] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 604.

[7] Gury Compend. Theol. Moral. Præfat.—"In hisce disciplinis vix ullum reperias punctum in quo et ipsi inter se Doctores consentientes sint."

doubtfully enjoined by it. Finally, human society would suffer greatly if all acts were omitted because their lawfulness is doubtful.[1] Thus the Church in its efforts to subject the human conscience to the domination of the confessional has covered the region of morals with a fog through which the explorer in search of truth and certainty blindly gropes his way and finds nothing but doubt.

Yet the duty of the confessional must be performed. Penitent and priest must decide every case that arises in the complicated affairs of human life, and somehow or other absolution must be reached if the soul of the sinner, confided to the Church's care, is to be saved. Some rule must be established whereby doubt can be solved, some clue whereby the blind can lead the blind in the true path. In the earlier ages of Christianity St. Augustin had laughed at the pagan philosophy which taught that a man who followed what seemed to him probable could not sin or err; he had no mercy for opinions, and he insisted that nothing is probable unless it can be proved.[2] Leo I. was satisfied with the simple rule that in doubt and obscurity that course is to be followed which is not contrary to the precepts of the gospel and of the Fathers.[3] It is true that St. Bernard asserts that a man can safely hold an opinion which is not refuted by certain reason or respectable authority, but, as he is merely defending the speculation that the angels were ignorant in advance of the details of the Incarnation, the citation of the passage by Liguori only illustrates the desperate straits of modern theologians to find warrant in antiquity for their theories, for elsewhere he asserts that whether you do evil thinking it to be good, or good thinking it to be evil, it is a sin.[4] Richard of St. Victor says unhesitatingly that when we accord faith to a false opinion we are led into sin.[5] When practical conduct was at stake, after scholastic theology had

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[1] Bonal Institt. Theol. T. V. De actibus humanis n. 120.

[2] S. August. contra Academicos Lib. III. c. xvi.; Ejusd. de Utilitate credendi cap. 11. La Croix (Theol. Moral. Lib. I. n. 321) endeavors to argue this away by referring to St. Augustin's *Retractationes* Lib. I. c. 1, but there is nothing there to break the force of the argument.

[3] Leon. PP. I. Epist. CLXVII. ad Rusticum Narbon.—Gratian. Decr. c. ii. Dist. XIV.

[4] S. Bernardi Tract. de Baptismo etc. c. 5; Lib. de Præcept. et Dispensat. cap. xiv.—S. Alph. de Ligorio Apologiæ § 1, n. 6.

[5] Rich. a S. Victore de Statu Interioris Hominis Tract. II. cap. ii.

begun to raise a cloud of questions concerning mortal and venial sins, and enforced confession required every act to be submitted to the judgment of the priest, there was at first no hesitation in adhering to the rule that in doubtful cases the safest course was to be pursued—*in dubiis via est eligenda tutior*—that is, the course which, in modern parlance, favors law against liberty, which assumes that a precept is to be obeyed and exposes one to the least danger of sin. This rule is embodied in repeated papal decrees, several of which passed into the canon law, and it established on an apparently incontestable basis the system known as Tutiorism—that a man when in doubt as to the legality of an act must do that which is safest for his soul.[1] We have seen above in casual references to disputed points how constantly the older authorities recommend the truer or the safer opinion as that which should be adopted. Thus Alexander Hales says unhesitatingly that if a man feels doubt whether a transaction be tainted with simony or not he must abstain from it, for better is temporal loss than spiritual.[2] Yet the ingenuity of the schoolmen was constantly at work devising reasons to justify evasions of the laws. Usury, simony, the holding of pluralities and a host of other questions offered rich rewards for those who could evade the rigor of their condemnation, and the subtilty of the theologians was stimulated to the utmost to devise arguments which should satisfy the conscience and procure absolution without abandonment of profitable sin. Thus commenced the process described above by which conflicting opinions were formulated on one subject after another; the honest sinner found his ideas of right and wrong inextricably confused, and the dishonest one could protect himself in the enjoyment of ill-gotten gains and illicit pleasures. In this strife of dialectics there speedily arose the question as to the comparative probability of opposing opinions; there was no absolute touchstone as to their

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[1] C. 3 Extra Lib. IV. Tit. i.—C. 12, 24 Extra Lib. V. Tit. xii.—C. 5 Extra Lib. V. Tit. xxvii.—C. 1 Clement. Lib. V. Tit. xi.—Innoc. PP. III. de Sacro Altaris Mysterio Lib. V. c. xxiv.

Liguori (De Usu Moderato n. 55, 56, 57) vainly endeavors to argue away these decisions. An expression of Honorius III. (c. 11 Extra I. xxxvi.) recommending humanity to judges in cases where there was no express law has been quoted in support of "benignant" opinions, but it has no bearing on the subject.

[2] Alex. de Ales Summæ P. II. Q. cxii. Membr. 8.

veracity, and we begin to hear the ominous talk as to the more probable and the less probable. Thus alongside of Tutiorism arose the kindred rule, known in modern times as Probabiliorism, that between two opposite opinions the more probable one is to be followed. The two principles apparently were regarded as in no way antagonistic, and men were counselled according to the exigencies of the case to adopt either the safer or the more probable course.

The growing tendency to find justification for laxity awoke the most earnest opposition of the leading minds of the Church. It would be difficult to pronounce more emphatic condemnation of the modern fashionable moral theology, including the so-called reflex principles and the insidious distinction between material and formal sin, than that which is uttered by St. Bonaventura. Responsibility for sin, he says, is not evaded by doubt as to the interpretation of precepts; such probable opinions are worse than open transgressions, for not only is the sin committed, but the sinner is lured into false security which insures damnation. Casuistic ingenuity is merely a foolish disputation with God as though to convince him that he ought not to judge as a sin what we wish not to be a sin.[1] Evidently thus far what men might think in palliation of sin had no influence over the divine judgment.

Aquinas was a reasoner who indulged in more refinements than Bonaventura, and in his voluminous writings there are passages which have been quoted as supporting the modern school. In a

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[1] Dubia interpretatio præcepti est periculosa. . . . Ut si Deus approbet illam opinionem evadat sine lucro meriti; si autem reprobet eam damnetur, maxime cum tales opiniones quandoque periculosiores sunt quam apertæ transgressiones, quia ubi scit homo se delinquere inde facile corrigitur: ubi autem nescit se peccare, et insuper credit sibi licere, inde nec in morte pure convertitur propter falsam spem. . . . Cum autem Deo disputare stultum est, et quasi velle convincere eum ut non debeat judicare hoc esse peccatum mortale quod nostra opinio non vult pro mortali habere.—S. Bonavent. de Processu Religionis Process. v. c. 3, 28.

In spite of all this Liguori (De Usu moderato n. 12), in his reckless attempts to find old authorities for modern theories, does not hesitate to claim St. Bonaventura as a probabilist, because, when discussing the controverted question of the papal power to grant dispensations for vows of chastity, he states three opinions, which he says can all be sustained and declines to decide between them, though he indicates cautiously his preference for the safest one which denies the capacity of the pope.—In IV. Sentt. Dist. XXXVIII. Art. ii. Q. 3.

crucial text, however, he is as emphatic as Bonaventura in warning sinners that no opinions can justify sin or condone the guilt of him who follows them. When there are two contrary opinions, one must be true and the other false; whoso follows the false one sins even though he acts conscientiously; he who follows the true one, believing it to be true, is free from sin, but if he doubts or disbelieves its truth he sins.[1] In another passage he expressly says that in matters of faith and morals no one is excused who follows the erroneous opinion of any master.[2] Yet there were too many doubtful questions and too many contradictory opinions floating around in the schools for decision between them to be easy, and Aquinas

[1] S. Th. Aquinat. Quodl. VIII. art. 13. In discussing the lawfulness of pluralities he says—"Dicendum est ergo quod quando duæ sunt opiniones contrariæ de eodem oportet esse alteram veram et alteram falsam. Aut ergo ille qui facit contra opinionem magistrorum, utpote habendo plures præbendas, facit contra veram opinionem; et sic, cum facit contra legem Dei, non excusatur a peccato, quamvis non faciat contra conscientiam; sic enim contra legem Dei facit. Aut illa opinio non est vera, sed magis contraria quam iste sequitur, ita quod vere licet habere plures præbendas; et tunc distinguendum est: quia aut talis habet conscientiam de contrario, et sic iterum peccat contra conscientiam faciens, quamvis non contra legem, aut non habet conscientiam de contrario seu certitudinem, sed tamen in quamdam dubitationem inducitur et contrarietate opinionum; et sic si manente tali dubitatione plures præbendas habet, periculo se committit et sic proculdubio peccat utpote magis amans beneficium temporale quam propriam salutem; aut ex contrariis opinionibus in nullam dubitationem adducitur, et sic non committit se discrimini nec peccat." It will be seen how completely destructive this is to the theory of material sin and to the whole structure of modern moral theology. On a question underlying the conduct of life and the nature of sin it is suggestive to see the two great doctors of Latin Christianity, Aquinas and Liguori, completely at odds, and that an infallible Church should thus condemn in the thirteenth century what it teaches and practices in the nineteenth. La Croix's misquotation of detached sentences from the passage is a typical illustration of the unscrupulousness of his school (Theol. Moral. Lib. I. n. 321). Liguori also attempts to use it (De Usu moderato n. 14). Shguanin, on the other hand (Anatomia Probabilismi Q. III. § vi. Probat. 5, n. 29, 30), triumphantly quotes it as irrefragible evidence of the falsity of the probabilist position.

[2] "In his vero quæ pertinent ad fidem et bonos mores nullus excusatur si sequatur erroneam opinionem alicujus magistri: in talibus enim ignorantia non excusat."—Quodlibet. III. art. X.

The probabilists are in the habit of altering this to "potest quisquam amplecti opinionem quam a magistro audivit in his quæ ad mores pertinent" (Wigandt Tribun. Confessar. Tract. II. Exam. iii. n. 4; Shguanin Anatomia Probabilismi Q. II. § 1, n. 4).

himself is sometimes reduced to pronouncing one probable or more probable. Thus when discussing the views of Hales and Bonaventura that a mortal sin should be confessed as soon as possible after commission, he says that the opinion is probable of those who hold that this is not necessary, though it is dangerous to defer confession; it is similar to physical disease, when a physician is not immediately summoned.[1] Again, in the discussion as to the necessity of confessing aggravating circumstances, he says that the negative opinion is the more probable.[2] At the same time he gave a definition of the word opinion, which has maintained its place in theology ever since, that it is an act of the intellect leaning to one side of a contradiction with a dread of the other.[3]

Duns Scotus assumes, as a matter of course, that in doubtful cases it is a sin not to follow the more probable opinion,[4] and in 1312 the general council of Vienne orders the adoption of the doctrine that baptism confers informing grace to be adopted as the more probable opinion and the one most concordant with the views of ancient and modern theologians.[5] There might seem to be a slight concession in the remark of Pierre de la Palu that no one is held to that of which he believes with probability the opposite, for probable ignorance excuses from mortal sin, but this is a mere extension of the use of the word probable, for he is engaged in showing that a subject can confess validly to his priest who has secretly incurred irregularity and suspension.[6] That it had no special significance is seen in the general adoption by subsequent authors, as a matter of course, of

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[1] S. Th. Aquin. in IV. Sentt. Dist. XVII. Q. iii. Art. 1.—Alex. de Ales Summæ P. IV. Q. XVIII. Membr. iv. Art. 4.—S. Bonavent. in IV. Sentt. Dist. XVII. P. ii. Art. 2, Q. 2.

[2] S. Th. Aquin. in IV. Sentt. Dist. XVI. Q. iii. Art. 2 ad 5. Cf. Sec. Sec. Q. I. Art. iv. *in corp.*

[3] S. Th. Aquin. Summæ I. Q. lxxix. Art. 9 ad 4. "Actum intellectus quæ fertur in unam partem contradictionis cum formidine alterius."

St. Bernard's definition is "Opinio sola veri similitudine se tuetur . . . certi nihil habens, verum per verisimilia quærit potius quam apprehendit."—De Consideratione Lib. V. c. 3.

A later definition is "Opinio est quasi pro vero habere aliquid quod falsum esse nescias."—Joannis de Janua Summa quæ vocatur Catholicon s. v. *Opinio.*

[4] Jo. Scoti in IV. Sentt. Dist. XI. Q. vi.—Liguori (De Usu moderato n. 15) quotes this passage, modifying and interpolating it to suit his purpose.

[5] C. 1 § 3 Clement. Lib. I. Tit. 1.

[6] P. de Palude in IV. Sentt. Dist. XVII. Q. vi. Art. 2.

tutiorism and probabiliorism. In the middle of the fifteenth century St. Antonino devotes considerable space to the discussion of all the points involved, showing that they were attracting increased attention in the schools. He argues that in these matters there can be no absolute mathematical or moral proof, and moral certainty must depend on probable conjectures leaning more to one side than the other, but he defines probability to be that which appears true to the greater and wiser portion of the doctors—what, in fact, in modern times has come to be reckoned as the more probable. He repeatedly asserts that in doubtful cases the safer course must be taken, but he admits that tutiorism is not an invariable rule, for if it were all mankind would be obliged to embrace a religious life, as that is unquestionably the safest. When two opinions are equally probable the safer must be chosen, and, in the intricacy and variety of human affairs, we must be content with a certainty which does not always eliminate all scruples, but enables us to reject them. In short, St. Antonino was a tutiorist wherever possible and a probabiliorist in the exceptional cases. At the same time we see the commencement of the theory that sin is dependent on the belief of the actor when he asserts that, in the conflict of opinion, one can act according to that which he believes to be the more probable, especially when he diligently seeks to ascertain whether it is licit, and finds nothing to lead him to regard it as illicit,[1] or, in other words, when he has the benefit of invincible ignorance.

Towards the end of the fifteenth century Angiolo da Chivasso shows the growing perplexity arising from the multiplication of conflicting opinions and the difficulty of furnishing a clue through the labyrinth. In doubt, where there is peril for the soul, the safer course is to be followed, but in the diversity of opinions it is difficult to select. In matters of scripture and divine law theologians are to be preferred, in canonical questions, canonists, in positive law, legists. In conflicts between papal and conciliar decrees, when the faith is concerned, the councils are preferable, for the world is greater than the city, but in other things the pope is to be followed. All this shows how

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[1] S. Antonini Summæ P. I. Tit. iii. cap. 10, § 10; Tit. xx.—P. II. Tit. i. cap. 11, § 28.—P. III. Tit. v. cap. 2, § 9.

Yet Liguori, with his customary unscrupulousness (De Usu moderato n. 13, 50) garbles sentences from some of these passages to prove that St. Antonino was opposed to tutiorism.

rapidly, in the increasing complexity of scholastic theology, morals were becoming a mere matter of opinion, and this is further proved by the remark that he is to be excused who follows the opinion of a doctor believing it to be true and would not follow it if he did not consider it to be so: he can thus acquire moral certainty and can dismiss all doubt and contrary opinion.[1] Baptista Tornamala was less inclined to yield to the tendencies of the period and was an uncompromising tutiorist,[2] while Bartolommeo de Chaimis and Geiler von Keysersberg record themselves on the same side.[3] In Prierias tutiorism is qualified with probabiliorism, and the tendency shows itself to give more weight to the belief or convictions of the actor; in doubtful matters the safer part is to be followed, but not in cases where the safer opinion is considerably less probable than the opposite, for there the doubt ceases; even where the difference is slighter it is not necessarily to be followed, because conscience does not obligate us to anything that it does not believe or know; when probabilities are equal the safer must perforce be chosen whenever there is risk of mortal sin.[4] Cardinal Caietano shows the same transitional process: the safer part is always to be followed; it is not safe to trust to opinion which is always ambiguous, for it is unlawful to incur the risk of sin; yet he feels the necessity of some rule of guidance in the maze of conflicting opinions and admits that *per accidens* those unable to distinguish between opinion and moral reasons may err excusably when, without dread of the opposite, they believe learned and wise men who tell them that a certain thing is lawful.[5] Giovanni da Taggia asserts unqualifiedly that in doubt the safer course must be chosen, though elsewhere he speaks of it as the more equitable one,

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[1] Summa Angelica s. vv. *Confessio* IV. § 3; *Dubium* § 1; *Opinio* §§ 1, 2.

[2] Summa Rosella s. v. *Dubium.* "In foro pœnitentiæ semper pars tutior est eligenda licet videtur durior, quia in illa parte nullum subest periculum."

[3] Bart. de Chaimis Interrog. fol. 38*a*.—Jo. Keysersperg. Navicula Pœnitentiæ (Aug. Vindel. 1511 fol. xlviii. col. 1)—"Tu studeas tutiorem opinionem inquireri et eandem insectari."

[4] Summa Sylvestrina s. v. *Dubium* §§ 5, 7. Liguori carefully avoids citing these passages but seeks to prove that Prierias was a probabilist from another (s. v. *Scrupulus* § 5) in which Prierias is treating of that terror of the confessional the scrupulous penitent, whose doubts had to be satisfied in any way whatever. See Jo. Gersonis de Præparatione ad Missam, Considerat. III.

[5] Caietani Summula s. v. *Opinionis Usus.* On the strength of this La Croix claims Caietano as a probabilist (Theol. Moral. Lib. I. n. 323).

and he recognizes that some opinions may be more probable than others.[1] Soon after this occurred a case, in which the probabilists take much comfort, which shows the increasing tendency to attach weight to opinion. Caietano was "singular" in the assertion that the pope has power to dissolve marriage by dispensation; a woman applied to Adrian VI. and showed him the opinion, whereat the learned pontiff marvelled much and granted the dispensation, saying that he gave what he could, but did not believe that he had the power.

Towards the middle of the sixteenth century Bartolommeo Fumo asserts absolutely that in conflicting opinions the safer must be chosen, but he shows the development of the theory that sin depends on belief by restricting this to cases where there is a dread of the opposite (which is inferred in the very definition of opinion) and adds that if one has firm credence in the opinion of a doctor he can follow it without mortal sin, though he believes another opinion to be better, for he does not follow what he thinks to be false though he thinks it to be less good. This is an important approach to probabilism and manifests the rapid development of the theories which were to lead to it.[3] Domingo Soto sought to check them when he said that in the schools the less probable opinions might be defended as an exercise of ingenuity, but that it is wicked for a judge or physician to put them in practice, and much more for a theologian; when opinions are equally balanced it is not openly wrong to adopt one and then the other, but it can scarce be done without scandal.[4] Azpilcueta was a tutiorist; he expresses without reserve the doctrine that in doubt the safer way must be chosen in all things affecting salvation, but he recognizes fully the impossibility of adhering to the rule in the confused condition of moral teaching and in the countless intricacies

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[1] Summa Tabiena s. vv. *Dubitatio* § 1; *Opinio* §§ 1, 3; *Medicina* § 12. Like Prierias, he makes an exception to tutiorism in the case of scruples "*ex levibus conjecturis et multum debilibus*" (s. v. *Scrupulus* § 1). Liguori, as is his wont, cites this (De Usu moderato n. 52) to prove that Giovanni was a probabilist, while omitting to refer to the other passages.

[2] Dom. Soto in IV. Sentt. Dist. XXVII. Q. i. Art. 4.

[3] Armilla Aurea s. v. *Opinio* n. 2. Yet this does not justify Liguori (De Usu moderato n. 14) in quoting from this passage a sentence which is not there to prove that a man can act safely if he has a conviction from direct or reflex motives that the act is lawful.

[4] Dom. Soto de Justitia et Jure Lib. III. Q. vi. Art. 5 ad 4.

created by the ecclesiastical system and organization. The safer way need not be followed by him who in good faith embraces one of two opinions, because for him doubt does not exist; besides, if tutiorism is to be enforced a thousand opinions necessary to salvation and accepted by the Church must be discarded, and he instances the question of immediate confession after the commission of sin, the confession of all the circumstances of a sin and the avoidance of intercourse with excommunicates, in which the safer course is not commonly followed.[1] If to these we add the infinite difficulties arising from simony, pluralities, usurious contracts, marriages innocently contracted within the prohibited degrees, etc., we can see that the disputatious subtilty of the schools had brought moral theology into a condition in which some relief was essential both to penitent and confessor if absolution was to remain more than a meaningless formula. That the people by this time cared only for the opinion of some one on whom they could thrust responsibility and satisfied their consciences by accepting it is seen in his complaint of the custom, especially among magnates, of casually asking questions for their guidance while conversing and being satisfied to act on the impromptu answer.[2] How complete in this was the change from the time of the earlier schoolmen is shown by the manner in which Alexander Hales treats opinion as something in which there is always imperfection and uncertainty,[3] while William of Paris considers the idea that sin can be diminished by opinion and belief as so irrational that he uses it as an *argumentum ad absurdum.*[4]

The entering wedge to effect this change was found in the relations between the penitent and the confessor. We have seen above the rivalry between the parish priests and the mendicants over the confessional and the eagerness of both sides to secure penitents, as well as the ignorance of a large portion of those intrusted with the cure

[1] Azpilcuetæ Comment. de Pœnit. cap. *Si quis autem* n. 6, 8, 42, 48, 50, 58, 64. —Ejusd. Man. Confess. cap. XXVII. n. 281, 284.

[2] Azpilcuetæ Comment. *loc. cit.* n. 53.

[3] Alex. de Ales Summæ P. II. Q. CLXI. Membr. 1. "Dicitur nam opinio esse cum vitio semper, quia est cum formidine alterius partis; formido autem pœnam quandam dicit et quoad hoc est ibi vitium."

[4] Guill. Paris. de Legibus c. 21.—"Secundum hoc nullus errabit vel credendo vel operando, cum credendum sit unicuique quod credit et operandum quod operatur secundum credulitatis erroris sui."

of souls. The profitable vices of usury, simony, pluralities, etc., created a class of penitents amply able to pay trained theologians to give them opinions dextrously framed to enable them to justify their gains. When therefore a parish priest might refuse absolution for such offences he could be met with an opinion carefully prepared and greatly beyond his ability to refute, coupled with a threat that if he persisted some more accommodating mendicant in the neighboring convent could be found who would accept it and grant the sacrament. In the competition for penitents such arguments were not likely to prove ineffectual, and it is probably to this that we may attribute the development, at an early period, of a rule that the confessor must abandon his own convictions and accept a probable opinion held by his penitent, even though he does not himself believe its truth, and that he must grant absolution, even though he believes the penitent to be in mortal sin. A powerful adjuvant to the reception of this rule was doubtless also found in the pride of opinion of theologians who were themselves obliged to confess and who objected to being compelled to abandon their views at the instance of a priest whom perchance they regarded as greatly their inferior in learning. This is so complete an abnegation of the judicial character ascribed to the confessor that the introduction and growth of such a practice deserves examination.

The earliest allusion to this which I have met with occurs in Geoffroi de Fontaines, who died in 1238. He presents it in the rudimentary form that amid the conflicting opinions tolerated by the Church, the confessor, especially if he is not the parish priest, should tell the penitent to make strenuous efforts to inform himself from prudent men, after which the confessor can grant absolution, even though he holds the contrary opinion himself. Soon afterwards Richard de Clermont says the same, without making the distinction between the ordinary confessor and the mendicant volunteer.[1] Pierre de la Palu is more reserved. If the confessor is in doubt and the penitent assures him that he had acted by the advice of experts whose virtue and learning give assurance of good counsel, the confessor can acquiesce, but not if he is certain of the contrary.[2] By the middle of the fifteenth century the rule was generally admitted; the

[1] S. Antonin. Summæ P. I. Tit. iii. cap. 10, § 10.
[2] P. de Palude in IV. Sentt. Dist. XVII. P. ii. Art. 1.

confessor granted the absolution and left the penitent to settle it with his own conscience.[1] Prierias and Giovanni de Taggia take the same view.[2] The distinction drawn from the first between the parish priest and the volunteer confessor was not lost sight of. Bartolommeo Fumo says that if the authorities are divided as to a sin being mortal or venial, the confessor, if he is the parish priest of the sinner, must accept the penitent's opinion, but if he is not and believes the sin to be mortal he should refuse absolution.[3] Domingo Soto rejects this distinction, though he admits that it is generally accepted, and his argument on the subject shows how rapidly the belief was advancing that probability excuses from sin. He says the only point to be considered is whether the penitent's opinion is received as probable among authors of approved authority; if it lacks this degree of probability neither priest nor friar should absolve him; if it has this probability both are bound to absolve, nor do they act against their conscience, for though they may think the opinion false the penitent is excused from sin on account of the probability. A prudent priest, he adds, who knows that a penitent is involved in pluralities or in illicit contracts will often refuse to listen to his confession, but if by chance he hears it will grant absolution.[4] Azpilcueta and Rodriguez limit the rule much more rigidly. They make no distinction between priest and friar, but say that if the confessor regards his own opinion as sound, and that of the penitent as doubtful he must refuse absolution, but if he feels doubt, or if the two opinions are about equally probable he can absolve. Moreover, if the question is as to a sin being mortal or not the safer course is to be selected, and in directing the action of the penitent he must follow the more worthy opinion.[5]

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[1] S. Antonin. Summæ P. I. Tit. iii. cap. 10 § 10; P. III. Tit. xvii. c. 20 § 2.—Summa Angelica s. v. *Confessio* IV. § 3.

[2] Summa Sylvestrina s. v. *Confessio* II. § 3.—Summa Tabiena s. v. *Confess. Sacram.* n. 30.

[3] Armilla Aurea s. v. *Confessio* I. n. 18.

[4] Dom. Soto in IV. Sentt. Dist. XVIII. Q. ii. Art. 5 ad 5.

[5] Azpilcueta Manualis Confessar. cap. XXVI. n. 4, 5. Cf. Comment. de Pœnit. cap. *Si quis autem* n. 54, 66.—Rodriguez Summæ Cas. Consc. P. I. cap. 62, n. 11.

This passage of Azpilcueta is worth citing as an illustration of the habitual bad faith of Liguori. It reads "Si sint contrariæ doctorum opiniones quarum alteram confessarius et alteram pœnitens sequitur, et confessarius credit evidenti se textu vel ratione niti, pœnitentem autem dubia, non debet eum ab-

It was soon after this that the flood of probabilism broke in, and the fashionable moralists who promulgated it assumed as a matter of course the laxer view that the confessor must accept the probable opinion of the penitent, even if it is less probable than his own. It was argued that the penitent had a right to absolution and the confessor had no power to refuse it, even if he thought the penitent's opinion false, while the distinction between priest and friar was quietly dropped, for as the writers were almost exclusively regulars they were not likely to maintain a regulation which gave to the parish priests an advantage in the confessional. As this opinion passed the Roman censorship in the *Aphorismi Confessariorum* of Manuel Sa, in 1607, it had at least the tacit approval of the Holy See.[1] How this worked in the confessional is seen in a case reported, in 1666, by the Jesuit La Quintinye to his General Oliva, where a theological teacher had told him that he had recently absolved a noble who confessed that he was about to commit perjury to save a friend from paying a heavy fine and who could not be persuaded that it was sinful. This was merely an application of the rule laid down by the moral-

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solvere. At si *confessarius non adeo forti ratione nititur vel* pœnitens utitur pari vel fere pari et habet aliquem pro se doctorem clarum poterit eum absolvere. . . . *Quibus adde quod sicut cum dubitatur an aliquid sit mortale necne, securiorem partem confessarius et pœnitens eligere debent; ita* quum dubitatur an pœnitens hoc facere, dare aut pati debeat, *digniorem* opinionem confessarius eligere debet."

In quoting this, Liguori (De Usu moderato n. 69) omits the two clauses which I have italicized and changes *digniorem* into *benigniorem*, thus making Azpilcueta give testimony against himself.

[1] Angles Flores Theol. Quæst. (Venet. 1584, P. I. fol. 140*b*).—Toleti Instruct. Sacerd. Lib. III. c. xx. n. 2.—Em. Sa Aphorismi Confessar. s. v. *Absolutio* n. 15.—Zerola Praxis Sacr. Pœnit. c. xxii. Q. 3.—Carbonis Summa Summarum Casuum Conscientiæ Tom. I. P. I. Lib. 5, cap. 14.—Sayri Clavis Regia Sacerd. Lib. I. c. ix. n. 9-13.—Henriquez Summæ Theol. Moral. Lib. VI. cap. xxvii. n. 6.—Summa Diana s. v. *Opinio Probabilis* n. 7.—Busenbaum Medullæ Theol. Moral. Lib. I. Tract. 1, cap. 2, Dub. 2.—Escobar Theol. Moral. Tract. VII. Exam. iv. cap. 5, n. 23.—Marchant Tribunal. Animar. Tom. I. Tract. v. Tit. 5, Q. 8.—Jo. Sanchez Selecta de Sacramentis Disp. XXXIII. n. 54; XLII. n. 42.—Val. Reginald. Praxis Fori Pœnitent. Lib. xiii. n. 97.

There were a few authorities who dissented more or less from this teaching. Tomás Sanchez (In Præcept. Decalogi Lib. I. cap. ix. n. 29-31) limits it to learned and instructed penitents, and Laymann (Theol. Moral. Lib. I. Tract. 1. cap. 5 § 2, n. 10), Gobat (Alphab. Confessar. n. 178-81), and Lohner (Instructio Practica de Confessionibus P. I. cap. iii. § 2) agree with him.

ists that although the opinion of the penitent is not safe the confessor can in this instance consider it safe because the penitent firmly believes it to be so.[1]

There were of course rigorists who refused to accept these teachings. Thyrsus Gonzalez, the Jesuit General whose efforts to counteract the prevailing laxism of the Order will be referred to hereafter, prescribes the rule that if the confessor is satisfied that the opinion of his penitent is less probable than his own he must refuse absolution and instruct the sinner.[2] Pontas characterizes it as a pernicious maxim which certain unenlighted authors have had the boldness to endeavor to maintain during the past century, but he adds that if the confessor regards the penitent's opinion as more probable he may absolve him, and he even makes the concession that if the penitent be a learned man who in good faith regards his opinion as the more probable, or if he honestly believes that one may follow a less probable opinion, he can be absolved.[3] Wigandt will only admit that it is permissible when the penitent is a much more learned man than the confessor and has impartially reached the conclusion that his opinion is the more probable.[4] An anonymous but authoritative work, in 1727, protests against the rule, showing it to be incompatible with the position of judge and representative of Christ and that it leads to deplorable results in such matters as sensual impulses, performing divine service without attention, and adulterating merchandise while charging full price—the latter based on the probable opinion that there is no sin in mixing articles of different grades.[5] Concina quietly remarks

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[1] Döllinger und Reusch, Moralstreitigkeiten, II. 7.—Alph. de Leone de Off. et Potest. Confessar. Recoll. II. n. 117, 119.

[2] Gonzales Fundamentum Theol. Moral. Diss. XIV. n. 129. This was one of the points objected to by the five revisers of the Order when they condemned the work of Gonzalez (Döllinger u. Reusch, I. 123).

[3] Pontas, Dict. de Cas de Conscience, s. v. *Confesseur* I. ii. This passage affords another illustration of the dishonesty of the probabilist theologians. Pontas says "Si le confesseur était véritablement persuadé que l'opinion de son pénitent fût soutenable, c'est-à-dire qu' elle fût *plus probable* il pourroit en ce cas lui accorder absolution." Dr. Amort in his translation of Pontas quietly alters the words italicized into "æqueprobabilem." Liguori goes still further (De Usu moderato n. 69), and with a flourish over the rigorism of Pontas, quotes the passage, changing the "plus probable" into "probabilem," using it to prove that even the probabiliorists accept the rule.

[4] Wigandt Tribunal. Confessar. Tract. II. Exam. iii. n. 30.

[5] Istruzione per li novelli Confessori, I. 57 (Roma, 1727). This work is dedi-

that no Catholic goes to confession without having an opinion through which he expects absolution; if he had not he would not go.[1] Gerdil takes the position that if the confessor holds the penitent's position to be erroneous, or if the penitent admits it to be the less probable, absolution is to be refused; if the confessor doubts he must instruct the penitent to make inquiry, after which he may be absolved as holding it to be the more probable.[2] Alasia declares that a penitent who adheres to an opinion which he admits to be less probable and less safe is not to be absolved, but if he be a learned man and believes the opinion to be the more probable he may be absolved, provided he acts in good faith and the opinion be not one commonly reputed to be false.[3]

These protests by the adherents of a losing cause were unavailing. Probabilism triumphed and the rule has become firmly established. Liguori's arguments to justify it show in what an inextricably uncertain and vague condition the labors of the moralists had reduced the whole subject of morals. He pictures two confessors alternately confessing to each other and each requiring the other to abandon the opinions which he prefers. Or a confessor in confessing another confessor would be obliged to inquire into his opinions upon thousands of questions in which he regulates the consciences of his penitents and force him to abandon them for others. Still Liguori is not quite so relaxed as some of his predecessors and admits that if a penitent's opinion is evidently false and he refuses to abandon it, absolution should be withheld.[4] Liguori's authority in the modern Church is practically so unquestioned that the text-books of the present day are virtually unanimous on the subject. The confessor is told that he is not a judge of opinions and controversies like the pope, but only of the state of the penitent's conscience.[5]

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cated to Cardinal Paolucci, Dean of the Sacred College, and bears the warm approbation of the official examiners.

[1] Concina Theol. Christian. contracta Lib. II. Dist. ii. cap. 5, n. 5.

[2] Gerdil Theol. Moral. Lib. I. Q. iii. cap. 8 ad 7.

[3] Alasia Theol. Moral. *De Act. Human.* Diss. II. cap. vii. Q. 12.

[4] La Croix Theol. Moral. Lib. I. n. 443, 450.—Reiffenstuel Theol. Moral. Tract. I. Dist. iii. n. 55.—Roncaglia Univ. Mor. Theol. Tract. I. Q. 1, cap. ii. Q. 4.—Liguori Theol. Moral. Lib. VI. n. 604; Ejusd. Praxis Confessar. n. 115.

[5] Gury Compend. Theol. Moral. I. 78.—Gousset, Théologie Morale, I. 102.—Scavini Theol. Moral. Univ. Tract. x. Disp. 1, cap. 3, Art. 2, Q. 2.—Bonal Institt. Theol. T. V. *De Act. Human.* n. 143.—Marc Institt. Moral. Alphons. n. 1789.

It is evident from all this that by the end of the sixteenth century there was impending a total change in the doctrines and practice of the Church with regard to sin and the means of its avoidance and cure. Scholastic theology had multiplied so infinitely the opinions respecting every question involving the duty of man to his fellows and his God, and it was becoming so impossible for either penitent or confessor to grope his way in search of the safer or more probable course, that the old theories of tutiorism and probabiliorism were becoming impracticable. Opinions, moreover, evolved by casuistic subtilty from the precepts of the law and the gospel, were replacing those precepts in the estimation of teachers and taught, and the conception of sin itself was profoundly modified by the theories which regarded the act itself as virtually unimportant in comparison with the condition of the intellect and conscience of the actor. Change was in the air and only required for its impulsion a word fitly spoken. The word came, in 1577, when Bartolomé de Medina, a learned Spanish Dominican, published his Commentaries on the *Prima Secundæ* of Aquinas, in which, with some qualifications and limitations, he propounded the doctrine that when there are two probable and contradictory opinions on any question a man can select the less probable and the less safe and act upon it.[1] It was only a few years before, in 1571, that Antonio de Córduba, a Franciscan of the highest reputation, had said that all theologians are agreed that when two opposite opinions are equally probable the safer must be followed, and all the more so when it is more probable than its opposite.[2] Medina's doctrine might be novel and startling, but that it was the logical outcome of the rule that the confessor must accept the less probable opinion of his penitent is seen in the argument adduced by Bishop Angles, in 1584, to prove the latter, when he says that absolution is only to be denied for mortal sin, and

[1] Gonzales Fund. Theol. Moral. Diss. XIV. n. 26, 27). "An teneamur sequi opinionem probabiliorem relicta probabili; an satis est sequi opinionem probabilem? . . . Sed mihi videtur quod, si opinio est probabilis, licitum est eam sequi, etsi opposita sit probabilior."—La Croix formulates the matured theory of probabilism thus—"Quamvis probabilius sit quod Deus id nolit, tamen quia etiam est probabile quod velit vel saltem permittat, et quia Deus me nullibi obligat ad sequendum hoc quod est probabilius, hinc volo hoc facere, non facturus si scirem Deum id nolle."—Theol. Moral. Lib. I. n. 338.

[2] Gonzales op. cit. Introd. n. 2.—Sayri Clavis Regiæ Sacerd. Lib. I. cap. 5, n. 13.

the penitent does not sin in holding the less probable opinion[1]—"holding" in such case implying also acting upon it.

The opinion of Medina was adopted with a rapidity which shows that it was only the expression of the prevailing tendencies, and that it was eagerly hailed as a relief in the inextricable perplexities of the confessional. The next Dominican to promulgate it was Luis Lopez in 1584, but between 1590 and 1600, Michael Sasonius, Gregorio de Valencia, Pedro Navarro and Gabriel Vazquez speak of it as commonly accepted by the weightiest theologians.[2] Yet it did not lack opposition of the most formidable character. In 1598 the General Chapter of the Theatins ordered the members of the Order to observe probabiliorism.[3] The Jesuits had ranged themselves even earlier against it, and it is curious to observe that they, who afterwards became its most strenuous supporters, so that they were held by its opponents as practically responsible for it, at first were its opponents. The Constitutions of the Society order the teaching of the safer and most approved doctrines in all matters.[4] In 1595 the Fifth General Congregation strictly forbade the teaching of novel ideas or anything contrary to the common opinions of the schools and the axioms of the theologians, and all teachers were ordered to follow the doctrines of Aquinas.[5] The General Aquiviva followed this up, in 1598, by ordering confessors to labor in extir-

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[1] Angles Flores Theol. Quæstt. P. I. fol. 140*b*. (Venet. 1584)—"Quando pœnitentis opinio est probabilis, etsi sacerdotis opinio probabilior sit, sacerdos absolutionem illi neque debet negare nec potest, nunquam nam absolutio neganda est nisi propter mortale peccatum, et pœnitens illam tenendo non peccat." Yet Bishop Angles was a tutiorist, and in another passage says, "In rebus enim dubiis tutius est eligendum" (P. II. fol. 95*b*).

[2] Gonzales op. cit. Introd. n. 3–5.—Concina, Storia del Probabilismo Introd. § 1 n. 6.

[3] Concina loc. cit. n. 7.

[4] "Sequantur in quavis facultate securiorem et magis approbatam doctrinam et eos auctores qui eam docent."—Constitt. Soc. Jesu P. IV. cap. 5, n. 4 (Antverpiæ, 1635, p. 157).

[5] Quintæ Congr. General, Decr. 41 (Decreta Congr. General. Antverpiæ, 1635, p. 300). Possibly this may have arisen from the bitter antagonism between the Dominicans and the Jesuits, which found fresh material in the publication by Luis Molina, in 1588, of his *Concordia Liberi Arbitrii cum gratia.* In 1597 Clement VIII. appointed the congregation *De Auxiliis* to settle the quarrel, but it failed of its purpose, and Paul V., in 1607, could only forbid the combatants from abusing each other.

pating pestiferous and too lax opinions which pronounced sins not to be mortal.[1] It was in that same year that Gabriel Vasquez was the first Jesuit to write in defence of probabilism. He was followed by others, of whom Tomás Sanchez, the foremost theologian of his time, was the most eminent. In 1617 the General Vitelleschi made another effort in a circular letter complaining that some of the brethren taught opinions too liberal, especially in morals. In future they are never to use the rule "It is probable, for it has an author to support it," but are to promulgate only those opinions which are safer and have the support of the weightiest doctors, which conduce to good morals and serve to benefit, not to destroy. Those who refuse to do so are to be removed from professorships and never to be reappointed.[2] Rome, however, in 1607, had given a quasi recognition to the new theories in the censorship of Manuel Sa's *Aphorismi Confessariorum.* He had affirmed that a man is not bound by a vow or a precept when he feels equally in doubt for and against its validity; this the censor ordered changed to read that he is not bound when there is a probable opinion of the doctors that he is not bound.[3] Thus the more extreme position that equality of doubt in the individual's mind releases from the observance of precepts was condemned, while yet the preponderating weight of a probable opinion of the doctors was admitted in favor of liberty against the law. Urban VIII. moreover instructed the missionaries to the Indies that they could treat their converts in accordance with the probable opinions most favorable to them.[4]

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[1] Cl. Aquavivæ Instructio pro Superioribus, 31 Julii, 1598, cap. v. n. 3.—"Dent operam ut pestiferas quasdam et nimis laxas opiniones penitus evellent, hoc illudve non esse mortale, magni momenti non esse, necessarium non esse ut distincte confessando explicetur."

[2] "Quarto nonnullorum ex Societate sententiæ, in rebus præsertim ad mores spectantibus plus nimio liberæ, non modo periculum est ne ipsam evertant, sed ne Ecclesiæ etiam Dei universæ insignia afferant detrimenta. Omni itaque studio perficiant ut qui docent scribuntve minime hac regula et norma in delectu sententiarum utantur: *Tueri quis potest; Probabile est; Auctore non caret:* verum ad eas sententias accedant quæ tutiores, quæ graviorum majorisque nominis Doctorum suffragiis sunt frequentatæ, quæ bonis moribus conducunt magis, quæ denique pietatem alere et prodesse queunt, non vastare, non perdere."—Mutii Vitelleschi Epist. I. n. 13 (4 Jan. 1617).

[3] Index Brasichellensis I. 353 (Bergomi, 1608).—Em. Sa Aphor. Confessar. s. v. *Dubium* n. 2.

[4] Zacchariæ Annot. in La Croix Theol. Moral. Lib. I. n. 268.

In spite of conservative opposition the new standard of conduct spread rapidly throughout Europe. It was in vain that the more rigorous moralists denounced it and the shocking laxity of the conclusions to which it led in the hand of skilful casuists who were able to prove almost any required thesis by showing that it was at least probable or that some author could be cited whose opinion rendered it so. Each one strove to be more audacious than his fellows, and every point gained served as a stepping-stone to a new advance. The most earnest resistance was experienced in France, where the Sorbonne was inclined to stand in the ancient ways, where the antagonism to Jesuitism was most determined, and where the conservatism which came to be known as Jansenism had its home. As early as 1619 the Sorbonne condemned many lax propositions, as to murder, simony, etc., similar to those of the Jesuits, contained in the *Grande Guide des Curez* of the Benedictine Pierre Milhard, after he had refused to revoke them.[1] In 1641 it condemned the *Somme des Pechez* of the Jesuit Bauny and complained to the Parlement about the propositions taught by Père Hereau, professor of cases of conscience in the Jesuit College de Clermont; the Jesuits appealed to the Conseil d'État which in 1644 condemned the propositions. In 1649 the University of Louvain condemned several others taught by the Jesuit Amigo. In 1653 the Archbishop of Mechlin submitted to the University of Louvain seventeen more drawn from Jesuit books, and with its approbation he required all applicants for licences of confession to swear not to practice them. Seven graduates of the Jesuit college of Louvain refused to take the oath and defended the propositions. They appealed to the Roman Inquisition which manifested a disposition to help them, but the congregation of the council of Trent sustained the archbishop.[2] Finally, in 1656, came the war to the knife declared by Pascal in the *Provinciales*, directed against the Jesuits and finding in their support of probabilism and its attendant casuistry the most assailable point in their armor. The poisoned shafts of his deadly satire, like the arrows of Philoctetes, inflicted an incurable wound which has never ceased to rankle, and although, some forty years later, Père Daniel in his lumbering *Entretiens d'Eudoxe et de Cléandre* was able to point out a few errors and

[1] D'Argentré Collect. Judic. de novis Erroribus II. II. 116.

[2] Ant. Arnauld, La Théologie Morale des Jésuites, pp. 182, 196, 210, 215–26.

incorrect citations, his defence of the Order was scarce more than a confession. The Jesuit Pirot had already, in 1658, endeavored to reply, in his unfortunate *Apologie pour les Casuistes contre les Calomnies des Jansenistes*, a book which enjoyed perhaps more than any other on record universal execration and repeated condemnations, including one by Alexander VII.[1] The immediate result of Pascal's attack was the action of the assembly of the Gallican clergy in 1657, which ordered a translation of the Instructions of S. Carlo Borromeo for the use of French priests and prefaced it with an introduction in which the new science of morals is declared to be worse than the densest ignorance, for it teaches that all things may be treated problematically and seeks not to eradicate evil habits but to justify them, and to accommodate the precepts of Christ to the interests, pleasures and passions of men.[2] Then, in 1696, Colbert Archbishop of Rouen ordered that in his province the theology of Gennet and of Noël Alexandre should be taught to the exclusion of all probabilist authors. This led to a lively controversy between the Jesuit Daniel and Alexandre, which was only stopped by royal command, and in the course of which the Jesuit Bouffier was roughly handled by the archbishop, being compelled by his provincial to retract after his endurance had been tested by imprisonment.[3] The struggle continued with unabated vigor on both sides, until the great assembly of the Gallican clergy in 1700, under the leadership of Bossuet, adopted a formula which commanded as a precept that in doubt, where the probabilities are equal, the safer course must be chosen, and that it is permissible to no one to follow an opinion which he does not consider to be the

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[1] De Backer, VII. 321.—Index Alexandri VII. Romæ, 1664, p. 381.—Arnauld, op. cit. 375. Père Daniel's work was also prohibited in 1703 (Index Clement. XI. Romæ, 1711, pp. 147, 371).

[2] Une profonde ignorance seroit beaucoup plus souhaitable qu'une telle science qui apprend à tenir toutes choses problematiquement, et à chercher des moyens non pas pour exterminer les mauvaises habitudes, mais pour les justifier et pour les donner l'invention de les satisfaire en conscience: car, au lieu que Jésus Christ nous donne ses préceptes et nous laisse ses exemples afin que ceux qui croyent en lui lui obéissent, le dessin de ces auteurs paroit être d'accommoder les préceptes et les règles de Jésus Christ aux interests, aux plaisirs et aux passions des hommes.—Habert Theol. Moral. *De Conscientia* cap. IV. Q. 1.—Arnauld, *op. cit.* p. 362.

[3] Concina, Storia del Probabilismo, Diss. I. cap. iv. § 27.

most conformable to the truth.[1] The first third of the eighteenth century witnessed the quarrel over attrition, wherein the violent means resorted to for the enforcement of the Constitution *Unigenitus* rendered the Jesuits virtually masters of the situation, but probabiliorism and rigorism continued to be the distinguishing attributes of the Gallican Church.

In Rome also the ruling tendency towards the middle of the seventeenth century was distinctively antagonistic to probabilism. There were few more celebrated theologians of the period than the Cistercian Caramuel, whose *Theologia Fundamentalis*, printed at Frankfort in 1651, excited by the laxity of its opinions the animadversion of the Holy See, and, though out of consideration for his distinguished position, it was not placed on the Index he was obliged to issue a castigated edition in Rome in 1656 bearing on its title-page that the unwarrantably lax opinions were omitted, and in his prologue he apologizes for the severity of the results thus reached.[2] In 1655, at the general chapter of the Dominicans held in Rome, a command was received from Alexander VII. to prepare a work, founded on Aquinas, which should restrain the new and lax doctrines that were exposing souls to such grave peril.[3] The Dominicans were to some extent responsible for probabilism, as its discoverer, Bartolomé de Medina, was a member of their order, and under this impulsion they hastened to refute it. In Italy Giulio Mercoro's book against probabilism was already written and immediate orders were given for its

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[1] Absit vero ut probemus eorum errorem qui negant licere opinionem vel inter probabiles probabilissimam; sed ad rectum usum probabilium opinionum has regulas a jure præscriptas agnoscimus. Primum quod in dubiis de salutis negotio ubi æqualia utrimque animo sese offerunt rationum momenta, sequamur id quod tutius, sive quod est eo in casu unice tutum, neque id consilii sed præcepti loco habeamus, dicente Scriptura, qui amat periculum in eo peribit . . . . Denique ut nemini liceat eligere eam sententiam quam non veritati magis consentaneam duxerit.—Habert loc. cit.

[2] My edition is of 1656, and therefore such views as I may cite from the work are to be considered as having passed the Roman censorship.

[3] Tædere Sanctitatem suam novarum opinionum hujus sæculi in materia morali quibus disciplina evangelica resolvitur ac conscientiis cum gravi animarum periculo illuditur: maxime velle a theologis nostris in ecclesiæ hoc morbo laborantis remedium opus parare ex severiore et tuta doctrina D. Thomæ quæ hæc morum licentia, quæ in dies grassatur, quasi cauterio cohiberetur.—Wigandt Tribunal. Confessar. Tract. II. Exam. iii. n. 13.

publication. In Spain Juan Martinez de Prado, and in France Vincent Baron, Louis Baucelle, Vincent Contenson and Baptiste Gonet issued works of the same nature. A century later the Dominican Concina boasts that since then every Dominican writer had been a probabiliorist.[1] Their example was followed by the Franciscans, Augustinians, Carmelites, Trinitarians and many Benedictines,[2] stimulated, we may conjecture, by the irrepressible rivalry of the older orders against the upstart Society of Jesus.

Against this virtual unanimity of the Church the Jesuits held good—in fact, it was only a further argument for them to persevere, since in the competition for the confessional the rigor thus enjoined on the other orders gave the former a fairer field and rendered them more desirable than ever as spiritual directors, especially among the wealthier and more influential classes. Nominally, however, they bowed to the storm. In 1655 the Jesuit General Goswin Nickel, doubtless under pressure from Alexander VII., issued an encyclical referring to those of his predecessors and deprecating the dissemination of opinions based on insufficient probability and dangerous to the conscience.[3] The eleventh General Congregation, held in 1661, alludes to the ill-repute which the Society was acquiring through the laxity of its teachings; it refers to the decree of the fifth congregation in 1595, and commands more caution in the propagation of opinions which seekers for novelty may regard as probable.[4] This was followed, in 1662 and 1667, by letters of similar import issued by the General Oliva.[5] There was in these utterances no condemnation of the system, but only of its more flagrant abuses, and their influence on the teaching, writing and practice of Jesuit theologians

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[1] Concina, Storia del Probabilismo Diss. I. Introd. cap. IV. n. 3. Cf. Aguirre Concil. Hisp. Præf. n. 27.

[2] Aguirre loc. cit. n. 28, 30.—Concina ubi sup. n. 23; Theol. Christ. contr. Lib. II. Diss. ii. cap. 9, n. 16.—La Croix, writing about 1715, says of this virtual unanimity of the religious orders against probabilism, that it only shows that at the time the more rigid opinion prevailed, while now it is the opposite (Theol. Moral. Lib. I. n. 324).

[3] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1. Neither this epistle nor those of Oliva, alluded to below, are included in the "*Epistolæ Præpositorum Generalium*," Pragæ, 1711.

[4] Congr. General. XI. Decr. 22 (Bullæ, Decreta, Canones etc. Antverpiæ, 1665, p. 181).

[5] La Croix Theol. Moral. Lib. I. n. 469.

and confessors was imperceptible. The letter of La Quintanye to Oliva gives ample details of the most scandalous and almost incredible laxity on the part of Jesuit teachers and confessors, to which Oliva replied briefly and contemptuously. Peace must be maintained in the Society; La Quintanye is not to oppose his judgment to those who are wiser and more learned; all members must think and teach alike, and it is against the Rule to appeal from a superior.[1]

In 1665 Alexander VII. took a more decisive step in condemning a series of twenty-eight propositions, many of them being the more scandalous of those enunciated by the probabilist casuists; he did not in terms condemn probabilism by a formal sentence, but in the exordium of his decree he expressed his abhorrence of the methods of argument leading to such results, which, if generally adopted in practice, would corrupt all Christian life.[2] In 1666, moreover, he followed this up with another decree condemning seventeen propositions. Innocent XI. was equally opposed to the laxity of probabilism. In 1679 the University of Louvain sent to him a series of propositions drawn from the writings of the laxer schools, resulting in a decree issued the same year condemning sixty-five propositions. Of these the third was claimed by the rigorists as intended to suppress probabilism itself, for it prohibited action on slender (*tenuis*) probability, and they argued, with a fair show of reason, that any probability which was less than its opposite must be slender; but their antagonists replied that the condemnation of slender probability implied the acceptance of all other probabilities, and that they never acted on what was slender.[3] It is quite likely that Innocent intended his condemnation to have the meaning assigned to it by the rigorists, for, on June 26, 1680, he caused a decree of the Congregation of the Inquisition to be issued commanding the General

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[1] Döllinger u. Reusch, Moralstreitigkeiten, II. 12.

[2] Et summam illam luxuriantium ingeniorum licentiam indies magis excrescere, per quam in rebus ad conscientiam pertinentibus modus opinandi irrepsit, alienus omnino ab Evangelica simplicitate, sanctorumque Patrum doctrina, et quem si pro recta regula fideles in praxi sequerentur ingens eruptura esset Christianæ vitæ corruptela.—Alex. PP. VII. Decr. 7 Sept. 1665.

[3] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 2 § 4. Liguori (Apologia della Teologia Morale § ii. n. 44) eludes the effect of the condemnations of Alexander VII. and Innocent XI. by assuming that the propositions were condemned because they asserted as probable what is not probable.

Oliva to prohibit all members of the Society from writing in defence of the less probable opinion or to attack the doctrine which denied that the less probable opinion could be followed when a more probable one was known; also, that all Jesuits should be at liberty to controvert probabilism, and that they should be commanded to submit to the papal mandate. This decree was served on Oliva, July 8, 1680, when he promised obedience and said it had never been forbidden in the Society to write in favor of the more probable opinion.[1] Moreover, he dutifully prepared a circular letter in conformity with the papal command and submitted it to the Holy Office, but apparently it never was issued and he merely sent out one, like his previous utterances, warning the members in general terms against extreme laxity or rigor.[2]

What was the real position of the Jesuits, and what was the liberty which Oliva asserted that they enjoyed to defend either side of the controversy, is seen in the case of Father Elizalde, who, in 1669, submitted to him a work against probabilism and was threatened with the severest punishment if he should dare to print it.[3] Still more instructive is the exceedingly curious history of the publication of the *Fundamentum Theologiæ Moralis* of Thyrsus Gonzalez. Gonzalez was a learned Jesuit, whose reputation in the Order is shown by his appointment, in 1676, to the position of leading professor of theology in the Jesuit college of Salamanca. In 1670–2, while engaged in mission-work, he wrote a book with the object, as he says, of defending the Society from the aspersion that it was committed to the defence of the laxer opinions;[4] in 1673 he sent

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[1] Concina, Storia del Probabilismo Diss. II. cap. vi. § ult.—"De ordine Sanctitatis suæ ne ullo modo permittat patribus Societatis scribere pro opinione minus probabili et impugnare sententiam asserentium licitum non esse sequi opinionem minus probabilem in concursu magis probabilis sic cognitæ et judicatæ."

Innocent was so convinced of the evil effects of the Jesuit teaching that he had at one time in view the suppression of the Society, commencing by prohibiting the reception of novices, closing their colleges, and depriving them of the faculties of confession and preaching.—Theiner, Hist. du Pontificat de Clément XIV. T. II. p. 234.

[2] Döllinger und Reusch, Moralstreitigkeiten, I. 129.

[3] Ibidem, I. 55. The book was subsequently printed secretly, without permission, and under an assumed name.—De Backer I. 283.

[4] Gonzales Fund. Theol. Moral. Introd. n. 38.

this to Oliva in order to obtain licence for its printing, when it was submitted to five revisers, representing the provinces of Flanders, Italy, Portugal, France and Spain, who unanimously reported adversely, because, among other reasons, it argued that not probability but morality or strong conviction should be the guide of human action, and they pointed out what a triumph it would be to the enemies of the Society if a distinguished member should appear openly in opposition to its prevailing tenets.[1] When, in 1679, the Nuncio Mellini at Madrid received the decree of Innocent XI., he notified the pope that a Jesuit professor at Salamanca had written a book in opposition to probabilism; Innocent ordered it to be sent to him and gave it for examination to two theologians, who reported on it in terms of high praise. He ordered Gonzalez to print it, but the latter wisely refused to do so without the approbation of his superiors and begged the pope to get Oliva's permission. This Innocent declined to do, but in place of it issued the general order of June 26, 1680, alluded to above.[2] Oliva died in 1681, and was succeeded by Charles de Noyelles, to whom Gonzalez vainly applied for permission to print his book. In 1687 there was another vacancy, when, in the thirteenth congregation held to fill it, pressure from Innocent caused the election of Gonzalez; at his first audience the pope told him he had been chosen in order to save the Society from the abyss in which it appeared to wish to cast itself of adopting probabilism as its recognized doctrine;[3] together they sought to obtain from the congregation a condemnation of probabilism, but the most that they could accomplish was a grudging declaration of toleration for its opponents.[4] This was a mere verbal concession and was not intended to have any practical result. Innocent ordered Gonzalez to

[1] Concina, *op. cit.* Diss. I. c. iv. § 21; Diss. II. c. vi. § 19.—Döllinger u. Reusch, I. 123–4.

[2] Concina, Diss. I. c. iv. § 26.

[3] Döllinger u Reusch, I. 132, 162, 164.

[4] Cum relatum fuisset ad congregationem aliquos in ea esse persuasione quod Societas communibus quasi studiis tuendam sibi sumpsisset eorum doctorum sententiam qui censent in agendo licitum esse sequi opinionem minus probabilem favente libertati, relicta probabiliore stante pro præcepto, declarandum censuit Congregatio Societatem nec prohibuisse nec prohibere quominus contrariam sententiam tueri possent quibus eo magis probaretur.—Instit. T. I. p. 667 (Les Constitutions des Jésuites, Paris, 1845, p. 512).—Gonzales, Fund. Theol. Moral. Introd. n. 39.

have anti-probabilism taught in the Jesuit schools, and the general brought from Spain Padre Josef Alfaro to teach it in Rome, but the opposition was so strong that although Alfaro framed in that sense the theses to be defended, he dared not publish them. When, moreover, Gonzalez desired to have a second edition of Elizalde's book issued authoritatively, the revisers to whom it was submitted reported adversely, on the ground of its opposition to all other Jesuit writers, and that the Rule forbade difference of teaching in the Society. The pope and the general were fairly beaten, nor was anything gained when Innocent summoned Gonzalez to a congregation of cardinals and had a decree passed permitting every one to defend either side at pleasure.[1]

Alexander VIII., who succeeded Innocent XI., in 1689, was an anti-probabilist, and the policy of the Holy See appeared to be unalterable. Possibly it was the encouragement afforded by this that induced Gonzalez to hope that his long-suppressed book might at length see the light. As an experiment in this direction, in 1691, he caused to be quietly printed at Dillingen, in Suabia, a brief *Tractatus* or epitome of the work, under his own name, but without submitting it to the Master of the Sacred Palace or the censors of the Society. Rumors of its approaching appearance caused great agitation; the "Assistants" of the general begged him to suppress it and threatened an appeal to the members at large; as a last resort they went to Alexander, who ordered the whole edition to be forwarded to Rome and to be deposited with the Master. Instructions to this effect were sent to the Provincial of Germany, accompanied with secret orders to delay it. The book disappeared, and in 1695 not a copy of it could be found.[2]

Innocent XII., who succeeded after Alexander's short pontificate, was of the same mind, though he wavered sometimes under the influence of his favorite, the Jesuit Paolo Segneri, who was an ardent probabilist. How completely that doctrine had monopolized Jesuit teaching is seen by Segneri's extraordinary claim, in a letter of expostulation addressed to Gonzalez, that it was the ancient rule of the Church, and that probabiliorism is a modern innovation.[3] A reason

[1] Concina, Diss. I. c. iv. § 26.—Döllinger u. Reusch, I. 142–44.

[2] Döllinger u. Reusch, I. 145–56.

[3] Ibid. II. 100. "Sententia adeo æstimata per tot sæcula qualis est illa quod

for this is suggested in a letter of Henry Noris (soon afterwards promoted to the cardinalate) to the grand-duke Cosmo III., that the Jesuits were confessors to so many crowned heads, prince-bishops of Germany, and courtiers of high rank that they could not adopt the rigorist views of Gonzalez without forfeiting their positions in all the courts, and he added that the Assistants proposed, in case Gonzalez would not retract or suppress his opinions, to call a General Congregation for the purpose of deposing him.[1]

This threat was not an empty one. Gonzalez was bent on publishing his book; he offered to rewrite it and submit it to the Assistants, altering anything which they thought objectionable in manner. They replied, in January, 1693, that his business was to govern the Society and not to write books, and they would not consent to his issuing one opposed to the opinions of the vast majority of its members.[2] The preliminary trial of strength would take place in the Congregation of Procurators, held in November, 1693, which had the power to call a General Congregation. To each side it was all important to obtain a majority in this body, and, when the election took place in April in the Roman Province to choose a procurator, Paolo Segneri was elected by a majority of 34 to 8 and a declaration in favor of calling a General Congregation by 33 to 8. There could be no doubt what was the sense of the great body of the Society, and every effort was made to counteract it, even calling in the influence of the King of Spain and the Emperor.[3]

Meanwhile Gonzalez was busy in endeavoring to obtain papal authorization for his book. In June, 1693, the cardinals of the

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licet sequi aliquando opiniones minus probabiles, ob contrariam tam novam ut nunc primum oriatur."

The Gallican assembly of 1700, on the other hand, denounced probabilism as "hoc novum, hoc inauditum, hoc certis ac notis auctoribus postremo demum sæculo proditum" (Habert Theol. Moral. *De Conscientiæ* cap. iv. Q. 1), and when it added that the probabilists boasted that "tota theologia moralis nova est," it only echoed the words of Caramuel (Theol. Fundam. n. 1785) "Tota moralis theologia nova est: quis enim negare audebit hodie in Diana centenas opiniones probabiles quæ Augustino et antiquis patribus Ecclesiæ ignotæ." Even Liguori, in spite of his remorseless garbling of authorities to prove its antiquity, admits (De Usu moderato n. 60) that it had spread among the doctors only eighty or ninety years before.

[1] Döllinger u. Reusch, I. 176–77. [2] Ibid. pp. 174–5.

[3] Ibid. pp. 183, 188, 189.

Inquisition unanimously asked Innocent to grant it. He yielded, with the condition that it should pass through the hands of three censors, to be selected by him from among twenty to be named equally by Gonzalez and the Assistants. A few weeks later there was found by accident the decree of the Inquisition in 1680, forbidding Jesuits to defend probabilism, with the command to Gonzalez to publish his book, which had been forgotten, and when it was shown to Innocent he expressed his joy that by the inspiration of the Holy Ghost he had been led to grant the permission before he was aware of the previous action. In vain the Assistants made repeated protest; the censors and the Master of the Sacred Palace did their work; all expressions that could give offence were modified, and in October, 1693, the book at last was put to press, after its twenty years' incubation.[1] That it should have awakened such desperate antagonism shows how dearly the Society prized the laxity which rendered its members so acceptable as spiritual directors to the great ones of the earth. He states his motive to be because he has concluded that the use of the less safe and the less probable opinion has a double sense, in one of which, under certain limitations, it is true, and in the other false, and he has therefore resolved to write the book to show that this second sense, though adopted by some Jesuits, has not been accepted by all. For most of those who defend the use of the less safe and less probable opinion mean not that which to the actor seems false, or that it may be false, but which to him seems true and more probable, though it may be commonly esteemed less probable because it has fewer defenders among authors who are held to render an opinion probable. He is sure that there are very few Jesuit theologians who would dare to answer in the affirmative if asked whether it is licit to follow in practice a less safe opinion which the actor deems false or that it may prudently be condemned as false. He issues the work as a private theologian and not as General, and leaves to every one full liberty of thought and action.[2]

His own position is defined in the ten propositions which he sets at the commencement of the volume as those to be proved against the "too benignant" authors. These assert that an opinion favoring liberty against law is not to be adopted unless after investigation

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[1] Döllinger u. Reusch, I. 197-8, 204, 207, 209-10.

[2] Gonzales Fundam. Theol. Moral. Introd. n. 40-1.

it is found to have a greater foundation to be considered true than false, taking into consideration both reason and authority. If the reasons on each side are equal it must be rejected, for in doubt the safer course is to be followed, and it must also be rejected if the preponderance against liberty is slight. In directing consciences and resolving cases mere probabilities are not to be followed irrespective of their truth; to adopt the one favoring liberty it must be to the confessor true and in accordance with the law of God; the safer one, if to be rejected, must be false and imposing a burden which God has not imposed. In such matters the judgment must be formed without passion or precipitation and uninfluenced by the will. This group of propositions is followed by five others, in which he condemns unnecessary rigorism. He admits the force of invincible ignorance, which some rigorists denied, and asserts that the less safe probable opinion may be followed by any one, even though it be less probable than the safer one, provided always that it is certainly probable and that the actor, uninfluenced by passion, believes it to be the more probable, for then to him it is so.[1] It will be seen that Gonzalez was a very moderate probabiliorist.

The papal authorization removed the book from the jurisdiction of the approaching congregation of procurators, and the struggle henceforth was to be a personal one against the General. All five Assistants prepared a memorial to it, accusing him of tyranny and of violating the constitution of the Society, of unfitness and inexperience and obstinacy, of devoting himself wholly to writing books defamatory of the Society and of sacrificing everything to get them published. The ruin of the Society is threatened, and the only hope of safety lies in a General Congregation, which shall decide between him and the Assistants.[2] The expectation was that at such an extraordinary congregation a majority could be had to practically supersede him by the appointment of a vicar. The talk of deposing him

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[1] Gonzales Fundam. Theol. Moral, Propositiones capitales.—Père la Chaise wrote to Gonzalez, September 1, 1694, that he had been much deceived in what he had heard of the book, for he found that it taught laxer opinions than they ventured to follow in France.—Döllinger u. Reusch, II. 169.

De Backer (II. 247) describes nine editions of the work issued in 1694 and 1695, and none later. Apparently, as soon as curiosity was satisfied, it dropped out of sight.

[2] Döllinger u. Reusch, II. 131–7.

was fruitless, for that would require a two-thirds vote, and besides the reasons for such a course, prescribed in the constitution of the Society, were not applicable to the case. The procurators met November 15, 1693, and on the 18th the question was taken as to the calling of a Congregation. Twelve procurators voted for it and fourteen against it; to this were to be added the votes of the five Assistants in favor of the proposition and the two votes to which the General was entitled against it, making seventeen yeas to sixteen nays. Gonzalez pronounced it carried, and said he would consider the date at which to summon the Congregation. He had, under the constitution, eighteen months in which to do so, and he was in no haste. Nine months passed away, and on August 15, 1694, he issued a circular to the provincials stating that doubts had arisen whether a majority of one sufficed. He had summoned learned theologians to advise him in the matter, when it was taken out of his hands by the pope, who had appointed five cardinals to consider it; they had reported, on August 3, that the action of the procurators was invalid and the pope had confirmed their decision. The pope in fact had yielded to pressure from the Spanish and imperial courts, and had accepted a characteristically casuistic argument. The Jesuit statutes required "more than half the votes;" now half of thirty-three is sixteen and a half, and seventeen is only half a vote more—not a full vote over the half. The defeated probabilists might well comfort themselves by saying that in this case at least the less probable opinion had prevailed over the more probable.[1]

Under a precept of Innocent X. in 1646, a regular General Congregation was required to be held every nine years. That which elected Gonzalez had occurred in 1687, so that another was necessary in November, 1696, at which new Assistants were to be chosen. Secure in papal favor Gonzalez prepared for it by depressing his antagonists and promoting his supporters. When it met he had a decided majority; the new Assistants chosen were his friends, and his triumph was complete. In 1702 he addressed to Clement XI. a memorial in which he said that he was nearing his end and felt that after his death the strife would again break out in the Society, though at present no one in Rome dared to defend probabilism, wherefore he begged the pope to complete the work of Alexander VII., Innocent

[1] Döllinger u. Reusch I. 215–6, 222–26, 231.

XI. and Alexander VIII. by condemning its leading doctrines. Yet he did not die until October 27, 1705, after he had become incapacitated for some years, with Michele Agosto Tamburini as his vicar, who succeeded him in the generalate. He is said to have latterly been insane, and the Jesuit Bonucci alludes to him as having been driven mad by his subjects.[1] He might pardonably imagine that the cause to which he had devoted his life had permanently triumphed. In 1699 a writer on the papal Penitentiary informs us that its rule in all matters of conscience, where there is doubt, is to choose the safer and more probable opinion; this has always been the practice of the Major Penitentiary, and the minor Penitentiaries are required to observe it, not as a counsel but as a precept.[2]

At this crisis in the career of probabilism, when apparently it had spent its force and was rapidly becoming extinguished, under the opposition of the Holy See and the Gallican Church, we may pause to consider its doctrines and practice, and will thus be better enabled to understand certain modifications which it experienced in its revival and final triumph as the dominating principle in modern moral theology.

We have seen how impossible the schoolmen found it to furnish in practice any rule delimiting mortal from venial sin, and how, with advancing civilization and refinement of speculation, the intricacy of conflicting opinion became impenetrable to the acutest intellects. We have also seen how, as a necessary consequence, opinion came to obtain a controlling influence in the absence of all certainty. At the same time it was recognized as an absolute principle that no one must act with a doubtful conscience. St. Bernard had counselled suspense in all doubtful matters until certainty could be attained.[3] Aquinas laid it down as a positive rule that if a man doubts whether a sin is mortal or venial he sins mortally in committing it, for he exposes himself to the risk of sin.[4] This dictum was universally accepted as a fun-

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[1] Ibid. pp. 250–4, 262–5.

[2] Syri Placentini Dilucidatio Facultatum Minorum Pœnitentiarum Procem. Q. viii. (Romæ, 1699). "Pœnitentiarius Apostolicus in casibus dubiis tenetur semper sequi sententias probabiliores, relictis probabilibus tantum . . . Ergo absolute tenetur Pœnitentiarius sequi opinionem tutiorem et certiorem."

[3] S. Bernardi Serm. de Diversis, Sermo XXVI. n. 2, 3.

[4] S. Th. Aquin. in IV. Sentt. Dist. XXI. Q. ii. Art. 3 ad 3.

damental truth of morals, and has remained so to the present day.[1] This naturally led to much searching investigation into the various phases of doubt and certainty and many acute distinctions were drawn as to the imperceptible gradations from one extreme to the other. In these the doctors did not agree on all points, for in such impalpable matters definitions are often things, and the definition which suited one theory of morals was not always adapted to another. To the older schoolmen doubt meant a mental condition produced by contrary reasons of equal weight between which the intellect could not decide, and in such case, as we have seen, the rule was to select the safer course;[2] and these reasons must be probable, which, following Aristotle, means that they seem true to all men, or to the majority, or to all the learned or to the greater or more authoritative portion.[3] We shall see how different became the subsequent definition of probability, and how what once was doubt came to be dignified as equiprobabilism. In fact, it became necessary to revise the old definitions. Father Sayre tells us that some authors erroneously confound the *conscientia dubia* with the *conscientia probabilis;* doubt means assent to neither side, probability, assent to one side with dread of the other[4]—which shows that by this time opinion and probability were considered as virtually identical. Juan Sanchez deplores the common inability to distinguish between doubt and opinion leading to many incorrect decisions, and he endeavors to show that doubt exists only with regard to facts, while opinion is concerned with laws.[5] Caramuel is equally concerned about the gen-

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[1] S. Antonini Summæ P. I. Tit. iii. C. 10 § 10.—Pet. Hieremiæ Serm. Quadrages. Serm. xxii.—Summa Rosella s. v. *Confess. Sacram.* I. n. 12.—Summa Sylvestrina s. v. *Dubium* § 5.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. x. n. 2.—Jo. Sanchez Selecta de Sacramentis, Disp. XVII. n. 10.—Marchant Tribunal. Animar. Tom. I. Tract. v. Tit. iv. Q. 2.—Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 3.—Roncaglia Theol. Moral. Tract I. Q. 1, cap. 1. Q. 30–1.—S. Alph. de Ligorio, Theol. Moral. Lib. I. n. 22.—Alasia Theol. Moral. *De Actibus humanis* Diss. II. cap. 5, Q. 3.—Gousset Théol. Moral. I. 75.—Marc Institt. Moral. Alphonsian. n. 36.

[2] Summa Angelica s. v. *Dubium.*—"Dubium est motus indifferens in utramque partem contradictionis, vel dic quod dubium est æqualitas rationum contrariorum."—Cf. Summa Rosella s. v. *Confess. Sacram.* I. § 12.—Summa Sylvestrina s. v. *Dubium* §§ 1, 5.—Summa Tabiena s. v. *Dubium,* in corp.

[3] Summa Sylvestrina s. v. *Confessio* II. § 3.

[4] Sayri Clavis Regia Sacerd. Lib. I. cap. 5, n. 1.

[5] Jo. Sanchez Selecta de Sacramentis Disp. XLIII. n. 48–50.

In the simpler days of the elder schoolmen, before the subtilties of the

eral incapacity to distinguish properly between doubt and probability, and the space he devotes to the discussion of the subject shows that he recognized in it the key to the new moral theology, for he says that there is no subject which has given rise to more logomachy and equivocation. To remedy this he designates the doubt of the older authors as probability, and defines negative doubt to be where there is no reason, positive doubt where there is a slight reason, probability where there is a strong reason, and certainty where there is an irrefragable reason.[1] The intermediate state thus arbitrarily introduced between doubt and certainty afforded an admirable field for casuistic gymnastics. Arsdekin recurs to the identification of doubt and equiprobabilism, for he tells us that it exists where there are insufficient reasons on either side or when they are equally balanced, while a probable opinion is one grounded on reasons sufficient to induce prudent action.[2] Modern theologians generally accept the definition of positive doubt as that in which the reasons on either side are equal or nearly so, while negative is that in which no solid reasons can be alleged in support of either,[3] while Liguori, who adopts this definition, recurs to the old identification of positive doubt with probable opinion.[4] Pruner, however, says that doubt is negative when there is no ground for either of two opposites, and positive when for both or for one there is ground which is not decisive, thus distinguishing the latter from equiprobability,[5] while the latest authority contradicts this with still further refinement. Negative doubt is when there are only trivial and not probable reasons on either side; positive doubt may be of two kinds; when then is a weighty motive, sufficient to

casuists had involved everything in a fog, these questions were readily solved by the axiom that there might be perplexity as to facts, but there could be none as to the law—"Quantum ad jus nullus debet esse perplexus: nullus nam est in tali statu quin possit ab eo amoveri dubietas juris."—Alex. de Ales Summæ P. II. cap. cxx. Membr. 4, Art. 1.

[1] Caramuelis Theol. Fundament. n. 2, 1888, 1892.

[2] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 16.

[3] Stapf Epit. Theol. Moral. § 61 n. 2.—Scavini Theol. Moral. Tract. I. Disp. ii. cap. 3, Art. 2, Q. 2.—Alasia Theol. Moral. *De Action. Humanis* Diss. II. cap. 5, Q. 2.—Gousset, Théol. Morale, I. 74.—Bonal. Institt. Theol. T. V. n. 123.—Reiffenstuel Theol. Moral. Tract. I. Dist. iii. n. 29.

[4] Liguori, Istruzione pratica, cap. 1 n. 12—"sicche il dubbio positivo è lo stesso che l'opinione probabile."

[5] Pruner, Moraltheologie, Freiburg, 1883, p. 49.

make a probable conscience, though with dread of the opposite, on one side, there is *dubium una parte positivum;* when there is such a motive on both sides (which is equiprobability) there is *dubium utrinque positivum.* Moreover, when opposite probabilities are equal they destroy each other and give rise to *dubium strictum;* when the probability on one side is certainly more probable than that on the other it only causes *dubium latum*, which can be disregarded.[1] There is also the distinction between practical and speculative or abstract doubt: if I doubt whether it is lawful to put out money at interest in a ground-rent I sin in doing so, for I expose myself to the danger of sin, but in speculative doubt it becomes lawful to take the ground-rent, because it is lawful to follow a less safe probable opinion.[2] It is not lawful, says Liguori, to act under practical doubt, but this can be removed by the application of a reflex principle, and then if the act is sinful the actor escapes sin because he has the benefit of invincible ignorance.[3] It would seem that in the endeavor to frame artificial rules for the conduct of souls the theologians have only covered an obscure subject with denser obscurity, which facilitates doing whatever one desires.

As, according to the theologians, human action to be free from sin must be free from doubt, moralists of all schools agree that a man's conscience must be certain before he acts. A certain conscience however is not easily acquired, especially in the clash of conflicting opinions on every subject, and the main effort of probabilism is to facilitate this process. First, there must be a definition of the kind of certainty which is requisite to exclude the sin of acting in doubt. Absolute certainty, technically known as physical or metaphysical, is admitted

[1] Marc Institt. Moral. Alphonsian. n. 32, 74, 75.

The use made of doubt by the moralists is illustrated by Gury (Comp. Theol. Moral. I. 80) in discussing the question whether one is obliged to satisfy an obligation which he doubts whether he has satisfied. The probabiliorists answer in the affirmative because a certain obligation is not discharged by an uncertain fulfilment. But the probabilists prove that no further satisfaction than the doubt is required and that to demand more leads to the condemned tutiorism. Yet the older probabilists argued differently; the obligation they held, is in possession and therefore must be satisfied.—Busenbaum Medullæ Theol. Moral. Lib. I. Tract. 1, cap. 2, Dub. 3.

[2] Layman Theol. Moral. Lib. I. Tract. 1, cap. 5, § 2, n. 8.—Liguori Istruzione pratica, cap. 1, n. 13.

[3] S. Alph. de Ligorio Theol. Moral. I. 21, 24, 26.

to be an impossibility; God does not demand impossibilities, and therefore moral certainty suffices. Some of the laxer authorities are content with probable or more probable certainty, and others distinguish moral certainty into *perfecta* and *imperfecta*, but these varieties are of no practical importance.[1] Moral certainty is an elastic term, and we shall see how readily it was adapted to meet the exigencies of the successive schools.

Before the discovery of probabilism by Bartolomé de Medina the difficulty of acquiring certainty amid clashing opinions was met by the argument that, in matters in which there is no scriptural testimony and no decision by the Church, a man who chooses in good faith as true one of two opinions does not sin through doubt, because to him there is no doubt.[2] The theory of Medina had a far wider scope, for it allowed a man to choose the less probable and less safe of two opinions, knowing it to be so. To do this it was necessary to assume that practical certainty was acquired by probability, and even by the lesser probability, and thus the certainty was shifted from belief in the innocence of the act to belief that if a man acted on a lesser probability he was shielded from the responsibility of the more or less probable sin of his action—a principle which threw wide open the flood-gates of laxism. In 1606 a probabilist author expresses this with some reserve.[3] Shortly afterward the great theologian Tomás Sanchez asserts the doctrine in the most emphatic manner. He asks whether one can act according to a less safe opinion of others which he deems probable against his own safer opinion, which he considers more probable. Some authors, he says, deny it, and he quotes several, from St. Antonino to Azpilcueta, who argue that this is to act against one's conscience and to expose oneself to the peril of mortal sin. But he answers that it is much more probable that this is licit. A probable opinion is one which can be followed without danger, and no one is bound to embrace the better and more perfect. When certainty is not to be obtained God does not

[1] La Croix Theol. Moral. Lib. I. n. 47, 49.—Voit Theol. Moral. I. 75.—Stapf Epit. Theol. Moral. § 61, n. 1.

[2] Azpilcuetæ Comment. Cap. *Si quis autem* n. 48, 50.

[3] Dico satis esse certitudinem moralem quæ tunc adest cum quis opinionem probabilem et aliquem doctorum non spernendum et rationem firmam sequitur; et non exponit se periculo peccandi: atque ita tutus est in foro conscientiæ.—Carbonis Summa Summarum Casuum Conscientiæ T. I. P. I. Lib. 5, cap. 14.

obligate us to it, but only to act with moral certainty, such as is to be found in a probable opinion. He does not act against his conscience who follows the less probable opinion, but only he who acts with a doubtful conscience or one which pronounces the act certainly a sin. Nor does he expose himself to the danger of formal but only of material sin, and in support of this he cites Medina, Mercado, Vazquez, Valencia, Gutierez, Suarez, Henriquez, Azor, Bañez, Navarro [Pedro], Aragon, Salon, Luis Lopez, Ledesma, Salas, Sayre and Leonardo—in fact, nearly all his prominent contemporaries. Moreover, he adds, that this is true even if the actor retains his own more probable opinion: also, if he thinks it more probable that the less probable cannot be followed, he yet can follow it if he thinks the lawfulness of such action to be probable. To reach these results Sanchez is obliged to reduce to a nullity the time-honored requirement of certainty. Some argue, he says, that a judgment practically certain is required, excluding all fear of the opposite, for whoever judges an act to be only practically probably licit judges it also to be probably illicit, and in doing it sins by exposing himself to the danger of sin. But it is much truer that a practically certain judgment is not requisite, but a probable judgment with a fear of the opposite suffices; otherwise scarce any one could act, for practical things are most difficult of knowing and are subjected to various opinions. Nor in this does he expose himself to the danger of sinning, which is incurred only by him who believes a thing to be illicit, and has not a probable assent asserting it to be licit.[1] Certainty thus dwindled away into probability, and though the theologians had to resort to the most illogical processes in order to reach this result they none the less resolutely accomplished it.[2] La Croix tells us that sin is excluded by acting on a probable opinion, and

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[1] Th. Sanchez in Præcepta Decalogi Lib. I. cap. ix. n. 13, 14, 17, 18.

[2] See Marchant *Tribunal Animarum*, where, after stating that opinion has always dread of the opposite, he states that it is not lawful to follow a probable opinion with an intrinsic and practical fear of the opposite, and divides fear into *formido intrinsica*—that which causes anxiety of the intellect—and *formido extrinsica*—that which arises from authority. It is only lawful to act with intrinsic certainty, but then practical and moral certainty does not exclude fear of the opposite, and he concludes that to act with a probable opinion, even with fear of the opposite, gives moral certainty of the lawfulness of the act, and nothing more is required.—Tom. I. Tract. v. Tit. 5, Q. 3, Concl. 1; Q. 7, 8.

thus the action is based on moral certainty.[1] The whole system was condensed into the favorite axiom of the probabilists, *qui probabiliter agit prudenter agit*—he who acts on a probability acts prudently. So enthusiastic did the moralists grow that a probable reason was declared to overcome law and precept, for reason itself is a sort of law and the origin of laws.[2] Juan Sanchez piously regards it as an act of Providence that there are such a multitude of conflicting opinions, for this lightens the yoke of Christ and preserves men from rebellion, for now they can choose the opinion and act on it without sin, as God does not care which opinion they select.[3] La Croix goes so far as to say that a man is bound to follow the less probable opinion and reject the more probable, whenever he can thus secure any temporal or spiritual advantage for himself or for another.[4]

It is no wonder that confessors who guided the consciences of their penitents on such principles speedily became favorites in courts. So easy a method of reconciling sin with salvation was sure to be popular, and when a probable opinion justified a sin, there were not lacking manufacturers of opinions to suit all demands. We have seen how eagerly the Jesuits embraced the new dispensation, which superseded the moral law, and how obstinately they adhered to it, but they were not the only propagators of it. Theologians of all classes constructed elaborate treatises on moral theology based upon it, and as the century wore on the number of its defenders increased enormously. Terrill cites two hundred authors in its favor, and says there are forty of these to one on the other side, and Gobat adds twenty-five more to the list.[5] This virtual unanimity of the writers afforded another proof of its truth, for it was piously pointed out that in a matter of such prime importance to morals God would not allow such numbers of the wisest and best of men to err.[6] It was assumed to be the ancient and recognized doctrine of the Church, and that opposition was merely a modern novelty of the Jansenists,

[1] La Croix Theol. Moral. Lib. I. n. 66. At the same time he admits (n. 201) that opinions become probable or improbable, according as the reasons for or against them are called to mind or discovered. There is thus no permanent or definite standard of conduct.

[2] Alph. de Leone de Off. et Potest. Confessar. Recoll. II. n. 67.

[3] Jo. Sanchez Selecta de Sacram. Disp. XLIV. n. 70.

[4] La Croix Theol. Moral. Lib. I. n. 459.

[5] Voit Theol. Moral. I. 76.

[6] La Croix, Lib. I. n. 270.

although none of the older authorities could be cited, and it was argued that rulers, subjects, physicians, lawyers and merchants act on probabilities, that certainty can rarely be attained in life, and that universal experience justifies the application of the rule to morals.[1] The arguments adduced in support of this sound like a parody on dialectics and would be amusing if they did not lead to consequences so deplorable, especially as they admit the bias which the inclination gives to the judgment in regarding an opinion as probable. Thus Arsdekin, as an example, selects the innocent question whether it is lawful to paint on Sunday, and proceeds to state that it is more probable that it is unlawful, less probable that it is lawful. But in this case the will, having regard to its object, or the good proper to it, determines the intellect to the probable assent that painting on Sunday is lawful. For thus on the one side it greatly promotes its own good and its liberty to paint if it chooses, and on the other hand suffers no detriment, for it still retains its liberty not to paint, as a matter of counsel, not obligatory under pain of sin. It is evident that it thus greatly promotes its own good, for it removes the obligation of always abstaining from this work, and it thus averts the danger of sin to which it would otherwise be subjected, and to which it would willingly expose itself if it determined the intellect to the opposite assent, all of which is an act of prudence.[2] Thus the conception that right and wrong have anything to do with human acts is completely suppressed, and the system may be described as a science of morals with morality eliminated. Besides, as La Croix points out, when we say that an opinion is probable or more probable, the correct inference is that its opposite is likewise probable,[3] which affords to human free-will the widest latitude of action.

Of course, in such a system, everything depends upon the received definition of probability. We have seen how vague and confused are the distinctions between doubt and probability—between the external verisimilitude and its action on the intellect, or its consideration objectively and subjectively—the probability itself and what is

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[1] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 17; cap. 2 § 1.

[2] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 2 § 2.

[3] La Croix Theol. Moral. Lib. I. n. 174–6. On the other hand (Ib. n. 178) when you say a thing is morally certain it does not follow that its opposite is destitute of probabillty, for there are various grades of moral certainty.

called the probable conscience. In the definition, moreover, of probability considered objectively, the probabilist theologians have been at variance, as in almost everything else,[1] and the various distinctions drawn afford ample opportunity for those so disposed to fritter away all safeguards. There is first the distinction between speculative and practical probability, of which some authorities make much, while others admit that it is a distinction without a difference, for, as Juan Sanchez says, practical probability arises from speculative as effect from cause, and speculative may at any moment be reduced to practice; it may therefore safely be dismissed from consideration.[2] More important is the distinction between intrinsic and extrinsic probability—the probability which arises from reasoning about an action and its probable sin or innocence, and that which is derived from the opinions of experts and of theological authorities. Of course, to an ordinary mind, intrinsic probability is the mainly or solely important question, for it concerns the naked fact whether an act is virtuous or vicious, but the theologians have so befogged the whole question of morals, and the gradations between greater or less probability are so refined, that it is generally admitted that only the most learned and sagacious are competent to express an opinion as to intrinsic probability. As Arsdekin expresses it, it is very rare that one is so singularly learned that he can decide the greater or less intrinsic probability of an opinion; we see by constant experience among the doctors that what seems more probable to one seems less so to another, and therefore it is evident that even to a learned man it would be an insupportable burden to determine which is the more probable opinion before he acts.[3] By virtually common consent, therefore, intrinsic probability is abandoned to the researches of the professed theologians to dispute over,

[1] For the various more or less conflicting definitions of probability, see La Croix Theol. Moral. Lib. I, n. 108, 112.

[2] Caramuelis Theol. Fundam. n. 348.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. ix. n. 3.—Jo. Sanchez Selecta de Sacramentis, Disp. XLIV. n. 63.—Viva Comment. in Prop. XXVI. Alex. VII. n. 9.—La Croix Theol. Moral. Lib. I. n. 115–18.—Liguori, Istruzione Pratica Cap. I. n. 43; Ejusd. De Usu moderato n. 6.

Gury, however (Comp. Theol. Moral. I. 77), points out that an act speculatively probable may be illicit in special cases through danger of scandal, irreverence, injustice etc.

[3] Arsdekin Theol. Tripart. P. III. Tract. 1, c. 2 § 4.

and the mass of confessors and penitents are told to be satisfied with extrinsic.[1]

Extrinsic probability, or that which is founded on the dictum of experts, is therefore virtually the sole guide for the conduct of the mass of mankind and the rule for practice in the confessional, with the result, it must be admitted, of obliterating the distinction between innocence and sin, for, as Caramuel points out, what is probable to-day may be improbable to-morrow, and what yesterday was probable to-day may be certainly true or certainly false.[2] Still this simplifies the question greatly, for it eliminates reason and substitutes authority, but in view of the vast crowd of theologians of all degrees of eminence it raises at once new problems as to the nature and amount of authority requisite to render an opinion probable. For the ordinary penitent it is universally admitted that the opinion of his confessor suffices and that he can safely follow it, and this, indeed, could scarce be otherwise in the system of the Church;[3] or,

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[1] Viva Comment. in Prop. XXVI. Alex. VII. n. 7.—La Croix Theol. Moral. Lib. I. n. 150-2.—Gury Comp. Theol. Moral. I. 54.—Reiffenstuel Theol. Moral. Tract. I. Dist. iii. n. 42.—Sporer (Theol. Moral. Tract. I. n. 36-40) holds that extrinsic probability does not suffice, but he neutralizes this by saying that a common opinion must not be departed from. Voit (Theol. Moral. Lib. I. n. 103) says that the actor must know the reasons of the probability, but also that he can assume their existence. Liguori, in a fit of rigorism (De Usu moderato n. 67), says that the confessor before adopting an opinion must weigh its intrinsic reasons, and if he finds a convincing one for the safer side he cannot adopt the less safe one, though it may be supported by many doctors. But this is admitted to be impossible, and his disciples unanimously agree that intrinsic probability can only be weighed by the most learned and experienced, and that all others must be content with extrinsic.—Scavini Theol. Moral. Univ. Tract. I. Disp. ii. Cap. 3, Art. 2, § 3 A. Q. 4.—Bonal Institt. Theol. Tom. V. *De Act. Human.* n. 124.—Marc. Institt. Moral. Alphons. n. 62.

Gousset (Théol. Morale, I. 100) quotes approvingly from the Jesuit Fed. Mar. Pallavicini, that a confessor should not impose on a penitent anything which is disputed by one or two respectable authors. The Church knows these differences and tolerates them; the confessor should not set himself up to decide.

[2] Caramuelis Theol. Fundam. n. 447.

[3] Caramuelis Theol. Fundam. n. 450.—La Croix Theol. Moral. Lib. I. n. 156-7.—Wigandt Tribunal. Confessar. Tract. II. Exam. iii. n. 3, 23.—Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 22.—Gousset Théol. Morale, I. 103.—Concina Theol. Christ. contracta Lib. I. Diss. 1, c. 5, n. 4.

Yet how are we to reconcile this with the assertion of Cardinal Rezzonico,

if he chooses to consult a learned man, he can accept the response without further inquiry, for that renders it sufficiently probable.[1] When, however, it comes to giving an opinion currency as probable, so that it can be quoted and used generally, there has been a vast amount of discussion. Pedro of Aragon says that it does not suffice that apparent reasons can be alleged in favor of an opinion, or that it has defenders, for then all errors would be probable; a probable opinion is one which can be followed without blame.[2] Some writers hold that a single author is sufficient, others that it requires four, or five, or six, or more: some are not particular as to the character and standing of the supporters of an opinion, others weigh and scrutinize them with commendable care. Liguori, whose familiarity with modern theologians was perhaps greater than that of any other writer, only places four doctors in the first rank, and none of them are moderns—Aquinas, Bonaventura, Duns Scotus and Antonino; next to them he classes men of very various ability, such as Suarez, Soto, Cano, Caietano, Bañez, Pierre de la Palu, Cardinal Toletus, Prierias, Tomás Sanchez, Angiolo da Chivasso, Vazquez, Bartolommeo Fumo, Roncaglia, the Salamanca theologians, Manuel Sa, Laymann etc., while he regards as too much inclined to laxity Caramuel, Zanardi, Juan Sanchez, Leander, Diana, Tamburini and some others.[3] All this debate is, however, of slender use, for the main point is whether the actor himself thinks the opinion probable, and this he may do on a single opinion if he believes it common.[4] In the first enthusiasm of probabilism the eager casuists grasped at the

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Bishop of Padua, who, in 1746, deploring the ignorance of the priesthood, informed them that they plunge themselves and those whom they guide into hell?—Lett. Pastorale, 19 Feb. 1746.

[1] Mart. Fornarii Institt. Confessar. Tract. II. cap. xviii.—Roncaglia Univ. Mor. Theol. Tract. I. Q. 1, cap. 2, Q. 4.

[2] Petri de Aragon de Justitia et Jure Q. LXIII. Art. iv.

[3] Vindiciæ Alphonsianæ, p. liii.—Marc Institt. Moral. Alphonsianæ, n. 63.

Summists, as a rule, are not regarded as of high authority, though some of them, as Caietano, Azpilcueta, Cardinal Toletus, Manuel Sa, Busenbaum etc. are *omni exceptione majores.*—La Croix Theol. Moral. Lib. I. n. 160–2. Juan Sanchez, who says that a single doctor of good standing renders an opinion probable, elsewhere asserts that three or four summists do the same if among them are Angiolo and Prierias.—Selecta de Sacramentis Disp. XLIII. n. 37; XLIV. n. 61.

[4] Alph. de Leone de Off. et Potest. Confessar. Recoll. II. n. 74–80.

opinions of any one whom they found in print, and pronounced that this rendered them probable, for they argued that what escaped the censure must be justifiable (a probability which came to be known as *probabilitas impunitatis* or *immunitatis*), but Alexander VII. condemned this indiscriminate attribution of authority to unknown men.[1] Arsdekin nominally accepts this papal utterance, and then, as is customary with theologians, proceeds to argue it away; numbers do not count; a dozen authors may be mistaken and a single one may upset the common opinion.[2] In accordance with this it is generally admitted that a single writer of unexceptionable character, who has examined a subject carefully, suffices to render his opinion probable, even if it is novel and opposed to all others,[3] and the decision of the papal Penitentiary, in 1831, that Liguori's opinions may safely be followed without investigation, confirms this.

All opinions, however, are not equally probable; of two opposites both may be equal, or one may be more probable than the other. The test for determining such comparison is not easy. As regards intrinsic comparative probability, the judgment must depend upon the intellectual working of the expert who compares them, and it is a common-place among the theologians that what to one doctor appears the more probable appears to another the less. No rules for such mental processes can be formulated, and in practice the decision must depend on extrinsic authority. The systematic writers, therefore, collect with incredible industry the opinions of their predecessors and enumerate them on either side of each disputed question; Liguori's followers boast that in his great Moral Theology he decides 4000 questions, giving 34,000 citations from about 800

[1] Alexandri VII. Prop. 27—"Si liber sit alicujus junioris et moderni debet opinio censeri probabilis, dum non constet rejectam esse a Sede Apostolica tanquam improbabilem."

[2] Arsdekin Theol. Tripart. P. III. Tract. i. cap. 2, § 5.

[3] Sa Aph. Confessar. s. v. *Dubium* n. 3.—Th. Sanchez in Præcept. Decal. Lib. I. cap. ix. n. 7.—Alph. de Leone de Offic. Confessar. Recoll. II. n. 72.—Caramuelis Theol. Fundam. n. 438, 448-9.—Layman Theol. Moral. Lib. I. Tract. 1, cap. 5, § 2, n. 6.—Viva Comment. in Prop. XXVI. Alex. VII. n. 1, 2, 6, 7; Comment. in Prop. III. Alex. VIII. n. 13.—La Croix Theol. Moral. Lib. I. n. 155.—Sporer Theol. Moral. Tract. I. n. 48.—Herzig Man. Confessar. P. I. n. 170.—Scavini Theol. Moral. Univ. Tract. I. Disp. vi. Cap. 3, Art. 2, § 3, A. Q. 6.—Gury Comp. Theol. Moral. I. 54.—Bonal Institt. Theol. Moral. Tom. V. *De Act. Human.* n. 123.—Marc Institt. Moral. Alphonsian. n. 63.

authors.[1] Since his time there has been less of this promiscuous heaping up of contradictory opinions, for his overshadowing authority renders it less necessary, but his predecessors strove in vain to establish some rule by which the comparative extrinsic probability of an opinion could be estimated. Juan Sanchez tells us that many men gauge this comparative probability by the number of authors maintaining it, but this he says is a mistake, for on a point treated by only three authors the support of two renders an opinion more probable than the support of sixteen would on a point discussed by thirty.[2] Arsdekin admits that the greater or less probabilities are very difficult to weigh, and that it often happens that what one thinks more probable on subsequent reflection appears to be less so.[3] Herzig tells us that authority does not make one opinion more probable than another, but reason; the opinion of one man may be more probable than that of many.[4] La Croix gives a list of erroneous opinions supported by from five to forty authors to show that number alone does not suffice.[5] These questions, however, were really of mere speculative importance. The probabiliorists troubled themselves little about them, for they abhorred casuistry, and in doubtful matters they inclined always to the more rigorous or safer side. To the probabilist they were unimportant, for he could choose either

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[1] Vindiciæ Alphonsianæ, p. lvi.

[2] Jo. Sanchez Selecta de Sacramentis Disp. XLIV. n. 67. How carelessly this collection of opinions was often done is indicated by Sanchez's warning that it is a mistake to rely upon the index of a book in judging of the opinion of an author, for indexes are often misleading and are only guides for consulting the text (Ib. n. 69). Thyrsus Gonzalez makes a fairly good point when he represents the sinner before the judgment-seat of God pleading that he had followed the less probable opinion favoring himself because it had the support of twelve weighty authors, and God responding that the other side had the support of twenty still more weighty authors, and besides was recognized by him, wherefore he had followed the flesh and not the will and law of God (Fundam. Theol. Moral. Diss. III. cap. ii. § 2).

[3] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. ii. § 2.

[4] Herzig Man. Confessar. P. I. n. 172.

[5] La Croix Theol. Moral. Lib. I. n. 130–49. La Croix (Ib. n. 165) adds a significant caution that it does not do to trust the citations of authorities quoted in support of an opinion, for you cannot know whether the compiler has himself examined or understood them. Arsdekin (Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 22) utters the same caution, for such citations are frequently false, which we have had occasion to see repeatedly is the case in those of Liguori.

side at will; the correctness of his choice made no difference, for if he followed a false opinion the sin was only material and not formal. As Voit says, "If I consider an opinion to be false, and others, perhaps wiser than I, from a weighty motive unknown to me, affirm it to be certainly probable and safe in practice, I can lawfully and safely adopt their judgment and abandon my own."[1] So little difference does it make that a confessor when applied to can advise according to one opinion at one time and according to its opposite at another, or an individual can vary his actions in the same manner, subject only to the limitation that he cannot apply both opinions in succession to the same case.[2] When such liberty exists the com-

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[1] Arsdekin loc. cit.—Reiffenstuel Theol. Moral. Tract. I. Dist. iii. n. 52–3.—Voit Theol. Moral. I. n. 102.

[2] Th. Sanchez in Præcepta Decalogi Lib. I. cap. ix. n. 19.—Sayri Clavis Regia Sacerd. Lib. I. cap. vi. n. 11.—Layman Theol. Moral. Lib. I. Tract. 1, cap. 5, § 2, n. 9.—Busenbaum Medull. Theol. Moral. Lib. I. Tract. 1, cap. 2, Dub. 2.—Caramuel Theol. Fundam. n. 486-95.—Alph. de Leone de Off. Confessar. Recoll. II. n. 109-10.—Herzig Man. Confessar. P. I. n. 175.—Voit Theol. Moral. I. 104.

The exact limits to the extent in which a man can thus successively take advantage of both conflicting opinions raise some difficult questions on which the theologians are not altogether in accord. Tamburini (Explic. Decalogi Lib. I. cap. iii. § 5) says that the distinctions laid down by the doctors are very perplexing to confessors in their application, and he proceeds to prescribe two rules based on the probable opinion being dependent on or independent of the will. Sporer says (Theol. Moral. Tract. I. cap. 1, n. 35) that if the lawfulness of a tax is doubtful, you can use the probable opinion of its unlawfulness to defraud it, and can then farm it and exact it of others. Some say that if you are a merchant and also a tax-collector you can evade it yourself and exact it, though if you should subsequently become convinced of its legality you must make restitution (La Croix Theol. Moral. Lib. I. n. 371). But you cannot commute a vow into almsgiving, and then, in view of doubt as to power to commute, withhold the alms (Sporer, loc. cit.). If a will is of doubtful validity, the heir cannot take the estate and then refuse to pay legacies on the ground of invalidity, nor can fasting or the hours of prayer be evaded when two clocks are unlike and you follow one and then the other (La Croix, loc. cit.).

These examples are not antiquated casuistry. Gury (Casus Conscientiæ I. 76) tells us that an heir may accept a will drawn in his favor and lacking certain legal formalities, and then subsequently may upset another will similarly lacking, because it is in favor of other parties, while he is next of kin. He simply exercises his right in electing first one and then the other of two probabilities.

These moralists are careful not to cite two of the established rules collected

parison of probabilities is a mere speculative exercise of dialectics of no moment in the conduct of life or in the discharge of the duties of the confessional. Still there has been a vast amount of ingenuity expended in defining the various grades of probability, but the vagueness which pervades the subject is illustrated by a remark of Marchant, that no one can use a probable opinion in opposition to a certain or infallible one, if the latter can be used[1] as though there could be any probability as opposed to certainty.

More important however is the definition of what renders an opinion truly or safely probable. In view of the adoption of probability as a rule of guidance it is essential that this should be clearly understood, but, like everything else, in this misty region it was impossible of accurate determination, and the views entertained necessarily varied with the tendency to laxity or rigor of the individual. Tomás Sanchez tells us that there are two cases in which a man may follow an opinion which is not entirely destitute of probability or which is even improbable, provided it is not evidently false; one is where there is grave necessity of avoiding imminent peril, and the other where there is haste and no opportunity of decision.[2] Marchant, as a Gallican, though not a Jansenist, was disposed to take a rigorist attitude. He condemns the current maxim that three or two or even one doctor makes an opinion probable, for types and printing confer no authority, and the fact that a book has passed the censorship does not show that all its propositions are approved. To render an opinion truly probable it must not be repugnant to the precepts of God or the innate laws of the Synderesis, or to the written law and Decalogue or the traditional law, or scripture or to the human actions of Christ and the saints, the interpretations of the doctors and the sense of the Church and its councils and the teachings of theologians of acknowledged authority, from among whom he excludes the scribblers whose sole effort is to proclaim some new subtilty; moreover, no matter what is the authority of the doctor, if his opinion is at vari-

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by Boniface VIII. in 1298—"Quod semel placuit amplius displicere non potest" (Reg. xxi.), and "Mutare consilium quis non potest in alterius detrimentum" (Reg. xxxiii.).—Regulæ Juris in Sexto ad calcem.

[1] Marchant Tribunal. Animar. Tom. I. Tract. v. Tit. 5, Q. 3, Concl. 5.—For the definitions of the various grades of probability see Liguori Theol. Moral. I. 40, or Gousset, Théol. Morale, I. 89.

[2] Th. Sanchez in Præcepta Decal. Lib. I. cap. ix. n. 25.

ance with the primary law it is not probable.[1] La Croix, who represents the developed probabilism of the eighteenth century, taught by the Jesuits, tells us that if a man considers an opinion to be absolutely false he cannot use it in practice, but if it only seems to be false, while the authors supporting it render it extrinsically probable, he can use it with a safe conscience. This is confirmed by the fact that many moralists of the highest repute, while holding one side to be absolutely true and the opposite consequently to be false, yet often add that the opposite is probable and can be used in practice. It is therefore unnecessary to inquire whether an opinion is true, but only whether it is probable, for probability and lawfulness are the same.[2]

In obedience to this we are told that if a man feels doubt as to the legality of doing or omitting anything, he ought to use due diligence to determine the question, but if he cannot do this he should choose which appears to be the best, and if this is impracticable he can do as he likes, feeling certain that he does not sin, for it is the same as if both sides were probable.[3] Thus the individual was taught how to satisfy both conscience and desire. Caramuel throws the whole burden of proof on rigor as against laxity, for all human acts are licit which do not evidently infringe on any obligatory law, and to show that it is illicit requires three things—first, that its malice be proved by reasons to which no probable answer can be given; second, to disprove its lawfulness by similar reasons, and, third, to show that the opinion in its favor is not supported by a sufficient number of authors—a proving of a negative well-nigh impossible in the multitude of theologians.[4]

Not content with securing the recognition of probability as a standard of action the moralists extended their conquests by claiming the same privilege for the doubtfully probable and the probably probable. There were some who drew a distinction between these

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[1] Marchant Tribunal. Animar. Tom. I. Tract. v. Tit. 5, Q. 4, 5.

Synderesis is sometimes used as synonymous with conscience, but strictly speaking, it is the habit of assenting to the primal principles which teach us to shun evil and to follow good, while conscience is the instrument through which it works.—Dom. Soto de Justitia et Jure Lib. I. Q. iv. Art. 1, Concl. 2. —Marchant *loc. cit.* Tit. 1, Q. 1, Concl. 1.

[2] La Croix Theol. Moral. Lib. I. n. 375–77, 387.

[3] Augustini Brevis Notitia eorum quæ vel necessaria vel utilia sunt Confessariis, *Conscientia*, n. 11 (Bononiæ, 1647).

[4] Caramuelis Theol. Fund. n. 451, 453.

adjectives, but the lines of demarkation were very hazy; the doubtfully probable should be rejected, because certainty cannot be deduced from doubt, but the probably probable can be safely adopted as a rule of action.[1] In the efforts of the Holy See to check the laxity of the prevailing morality, Innocent XI., in 1679, condemned the proposition that slender (*tenuis*) probability could be safely followed.[2] The practical application of adjectives such as this is subject to no little latitude, and the exact meaning of the word *tenuis* gave rise to considerable perplexity;[3] besides, as his formula commenced with the word *generatim*, the casuists argued that he merely proposed to forbid the general use of slender probability and not its application to special and individual cases. The probably probable, moreover, was left untouched, and its use continued to be advocated.[4] Viva concedes to Innocent's condemnation the rejection of the slightly probable and the probably probable, but he adds that many weighty doctors think otherwise, and their opinion is not without probability, for there are cases in which the probability of the probability is sufficient to justify the use of the opinion in practice, and there is a dispute among the doctors whether in cases of necessity it is licit to follow opinions of slender probability.[5] It is all a juggle of words however, which the theologians used without any definite sense of their meaning, for La Croix, after saying that an opinion upheld by five or six authors of repute must be considered to have a weighty reason (which is the requisite of probability), even though it is com-

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[1] Tamburini (Explic. Decalogi Lib. I. cap. iii. § 3, n. 8) quotes Salas, Vazquez, Sanchez and Merolla in favor of the use of the probably probable, and emphatically approves it.

[2] Innoc. PP. XI. Prop. 3. "Generatim dum probabilitate, sive intrinsica sive extrinsica quantumvis tenui, modo a probabilitatis finibus non exeat, confisi aliquid agimus, semper prudenter agimus."

[3] Reiffenstuel (Theol. Moral. Tract. I. Dist. iii. n. 45–6), in discussing the meaning of *tenuis*, tells us that there has been dispute about it. Lumbier and Filguera say that it is what is probably probable—what is held by a few doctors against the majority. Cardenas says that an opinion probably probable is probable and that the *tenuiter probabilis* means doubtfully probable.

[4] Arsdekin Theol. Tripart. Tert. Sec. Tract. I. cap. ii. § 5.—Matthæucci Cautela Confessar. Lib. II. cap. iii. n. 3.—La Croix Theol. Moral. Lib. I. n. 365–8. In 1677 the Jesuits ordered that the use of the probably probable should not be taught in their schools, so as not to give a handle to their adversaries (Döllinger u. Reusch, I. 5), but they did not forbid the practice.

[5] Viva Comment. in Prop. 3 Innoc. XI. n. 11–13, 15.

monly rejected, follows this with the assertion that an opinion asserted by some and denied by others is not certainly but only probably probable,[1] while Marc tells us that there is little difference between slenderly, doubtfully and probably probable.[2] The more rigorous authors, such as Mendo and Gonzalez, rejected the use of the probably probable;[3] but Liguori argues away the condemnation of Innocent XI. by defining the slenderly probable as not probable, but only possessing a false appearance or apprehension of probability.[4] This leaves the ground free for the use of all grades of probability, and Herzig tells us that it is licit to use any probable opinion, if it is truly probable, though the probability may be of the barest kind and the opposite be most probable.[5] Liguori's modern followers however repudiate the use of slenderly probable opinions; the definition of probability now current is that it must be based on a weighty reason, and an opinion is deemed to be probable which is commonly held by theologians, or is taught by Aquinas and his school, or is asserted as probable by the majority of theologians, or is held as true by five or six theologians of eminence, unless a valid reason appears against it.[6] Within this however there are still, as of old, all grades of greater or less probability and opposing probable opinions on almost all questions.

Confident as are the theologians as to the safety of using the less probable opinion in opposition to the more probable, in matters which concern only the salvation of the soul by the avoidance of sin, human prudence required certain exceptions to be made which to the mind of anyone not trained in the dialectics of casuistry would have sufficed to show the falsity of the whole system. The early probabilists, in the enthusiasm aroused by the boundless control which the new theories gave them over the moral world had no hesitation in extending it over the spiritual and physical. In 1595 Pedro of Aragon

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[1] La Croix Theol. Moral. Lib. I. n. 122–5.—Gonzalez gives this same definition (Fundam. Theol. Moral. Introd. n. 28).

[2] Marc Institt. Moral. Alphons. n. 61.

[3] Mendo Epit. Opin. Moral., Discursus prælegendus n. 8.—Gonzalez *loc. cit.*

[4] S. Alph. de Ligorio Apologia della Teologia Morale § II. n. 36.

[5] Herzig Man. Confessar. P. I. n. 175.

[6] Scavini Tract. I. Disp. ii. cap. 3, Art. 1, § 3 A. Q. 1.—Gury Comp. Theol. Moral I. 54.

shows that a probable opinion, in opposition to a more probable one, can be followed in matters of faith, law and medicine.[1] It is true that about 1600 Henriquez calls attention to the special care requisite to use only the safer opinions in matters connected with faith and the sacraments—what are known as the *media necessaria ad salutem* or the *necessaria necessitate medii ad salutem.*[2] Soon after this Carbone tells us that there are some who doubt whether probable opinions can be followed as to the forms and administration of the sacraments, but he does not agree with them but with Medina, for if probabilities can be followed in other weighty matters why not in these?[3] Sayre admits that Medina had followers in this, but he shrinks from applying probabilities to the sacraments, and he also objects to the assertion that the physician and the judge can follow the less probable opinion in opposition to the more probable.[4] Vazquez says expressly that a judge must follow the more probable opinion.[5] Tomás Sanchez discusses the question at much length. Under certain restrictions he thinks it more probable that the less probable opinion can be followed in medicine and the sacraments but not in judicial decisions, though where opposite opinions are equal a judge can follow one at one time and the other at another if he avoids scandal. His remark about the sacraments moreover shows that as yet the distinction was not drawn, as to the sacrament of penitence, between the form of ministration and the question of its validity or invalidity arising from the use of less probable opinions by priest or penitent.[6] As probabilism spread, the laxer moralists, like Juan Sanchez, were not disposed to admit the exceptions of medicine, law, and the *media necessaria;* with regard to the latter, indeed, he boldly argued that as all connected with them is matter of conjecture, one opinion is virtually as good as another.[7] The more conservative probabilists, however, generally admitted these exceptions, for which Henriquez supplied the reasonable argument that, while a physician through ignorance may kill his

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[1] Pet. de Aragon. de Justitia et Jure Q. LXIII. Art. iv.

[2] Henriquez Summæ Theol. Moral. Lib. VI. cap. xxvii. n. 6.

[3] Carbonis Summæ Summar. Cas. Conscient. T. I. P. 1, Lib. 5, cap. 14.

[4] Sayri Clavis Reg. Sacerd. Lib. I. cap. vii. n. 3, 4, 6; cap. x. n. 11, 12; cap. xi. n. 3–13.

[5] Vazquez Opusc. Moral. *De Restitutione* cap. vi. § 3, n. 76, 86.

[6] Th. Sanchez in Præcepta Decalogi Lib. I. cap. ix. n. 32–48.

[7] Jo. Sanchez Selecta de Sacramentis Disp. XLIV. n. 1, 50 sqq.

patient, a man who follows a probable opinion incurs no risk, for God mercifully accepts it and cures all mistakes.[1] Still, with the progressive tendency to laxism, there were many who rejected the exceptions, at least as regards judges.[2] Concina tells us that Camargo collected the names of seventy moralists who supported the proposition that a judge can decide according to the less probable opinion and that it would have triumphed but for the action of Innocent XI.[3] who, in 1679, included in the condemnation of lax propositions those which extended the use of probable and less safe opinions to the conferring of sacraments and allowed judges to follow the lesser probability.[4] The probabiliorists did not fail to take advantage of this, and argued that as physicians and judges must follow the more probable opinion, the confessor as physician and judge of the soul should be bound by the same rule, and that the limitation forbidding a probable opinion to be followed to the injury of others rated the offence against a neighbor higher than the offence against God.[5] The probabilists retorted that natural laws always operate, but in morals the controlling element is the opinion and belief of the actor, so that no parallel can be drawn between them. If a man chooses a road infested by robbers instead of a safe one, his belief as to his immunity exercises no influence on the result.[6] There is also applied to it the rule that

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[1] Henriquez Summæ Theol. Moral. Proœm.—Layman Theol. Moral. Lib. I. Tract. 1, cap. 5, § 3, n. 15–16.—Val. Reginald. Praxis Fori Pœnit. Lib. XIII. n. 105.—Busenbaum Medullæ Theol. Moral. Lib. I. Tract. 1, cap. 2, Dub. 1.—Marchant Tribunal. Anim. T. I. Tract. 5, Tit. 5, Q. 3, Conclus. 3, 4.—Augustini Brevis Notitia eorum quæ necessaria vel utilia sunt Confessariis, *Conscientia*, n. 9.

[2] Alph. de Leone de Off. et Potest Confessar. Recoll. II. n. 100–1, 177, 179, 195.

[3] Concina Theol. Christ. contracta Lib. II. Diss. ii. cap. 5, n. 4.

[4] Innoc. PP. XI. Decr. *Sanctissimus*, 1678.—"Prop. I. Non est illicitum in sacramentis conferendis sequi opinionem probabilem de valore sacramenti relicta tutiore, nisi id vetet lex, conventio aut periculum gravis damni incurrendi. Hinc sententia probabili tantum utendum non est in collatione baptismi, ordinis sacerdotalis aut episcopalis.

"Prop. II. Probabiliter existimo judicem posse judicare juxta opinionem etiam minus probabilem." This latter is drawn from Juan Sanchez, *ubi sup.*

[5] Wigandt Tribunal. Confessar. Tract. II. Exam. iii. n. 29.—Habert Theol. Moral. *De Conscientia* cap. iv. Q. 1.

[6] La Croix Theol. Moral. Lib. I. n. 491.—Reiffenstuel Theol. Moral. Tract. I. Dist. iii. n. 48–9, 56.—Roncaglia Univ. Mor. Theol. Tract. I. Q. 1, cap. 1, Q. 4.—S. Alph. de Ligorio Theol. Moral. Lib. I. n. 41–8.

when injury to a third party is involved it is unlawful to follow even a safe in place of a safer opinion, as in shooting through a thicket at what is thought to be a beast, but which proves to be a man.[1] These are perfectly satisfactory arguments according to the probabilistic theory, and it is universally admitted that medicine, law and the sacraments are excepted from the use of probable opinions.[2] It is true that the exception of the ministration of sacraments would seem to destroy all probabilism, of which the main use is to facilitate the bestowal and reception of the sacrament of penitence, but this is overcome by ingenious argumentation and the comfortable presumption that the Church supplies all defects.[3]

The exclusion of probabilism from matters of faith, from the *necessaria de necessitate medii*, was a necessity if the faith was to be preserved from the heretic and the infidel, and opens for us a subject which can be treated here only with a brevity incommensurate with its interest. The relations between those outside the pale of the Church and those within had not escaped the searching investigations of the schoolmen. If invincible ignorance excuses from sin, the heathen who has never heard of Christ and the Atonement is guiltless and is not to be consigned to eternal torment. This is a result not to be accepted, and before the doctrine of invincible ignorance took its final extension it was held not to apply to religious truths. Hugues de S. Victor says the ignorant are ignored and not saved. Alexander Hales asserts that God will illumine those who seek him, so that the ignorance of those who have no access to Christian truth is not inculpable. William of Paris easily proves that to admit invincible ignorance in matters of faith is to deprive dogma of all importance. Gerson takes the same view, and indeed the axiom of the schoolmen that there can be no inculpable ignorance of divine law infers the mortal sin of the heathen and the heretic.[4]

[1] Voit Theol. Moral. I. n. 85, 91.

[2] La Croix Theol. Lib. I. n. 476, 489.—Manzo Epit. Theol. Moral. P. I. *De Conscientia* n. 22.—Gury Comp. Theol. Moral. I. 57.—Kenrick Theol. Moral. Tract. II. n. 21.—Bonal Institt. Theol. T. V. *De Act. Human.* n. 132–5.—Marc Institt. Moral. Alphons. n. 79–84.

[3] Voit Theol. Moral. I. n. 120–3.—Lexicon Theol. Moral. ex Opp. S. Alph. de Ligorio s. v. *Opinio*.

[4] Hugon. de S. Victore de Sacram. Lib. II. P. vi. cap. 5.—Alex. de Ales

Aquinas devised a shrewder explanation, which saved the efficacy of ignorance without saving the heathen. Their infidelity is not a sin, but they are damned nevertheless for their other sins, which cannot be remitted without faith.[1] This has come to be the accepted modern doctrine; the ignorance of the heathen and of the heretic who is trained in the faith of his fathers is inculpable, but he lacks the saving means provided for the pardon of his sins.[2] Yet, at the same time, it was a doctrine handed down from the schoolmen that heresy requires pertinacity; he is not a heretic who errs merely through ignorance and is ready to abandon his errors on their being pointed out.[3] The early probabilists were inclined to be even more liberal. Sayre tells us that heresy is not a sin of ignorance but of infidelity; to be a heretic a man must knowingly believe what the Church rejects. Even if the ignorance be not inculpable but be *ignorantia affectata* purposely held through negligence, he is not a heretic, for if he is ignorant through dislike of learning, and thus errs in the faith, he does not knowingly believe anything contrary to the decisions of the Church. Tomás Sanchez holds that the heathen and the heretic are not bound to abandon their errors simply on their being pointed out; to be responsible they must pertinaciously deny the truth after it has been sufficiently explained to them.[4] That *enfant terrible* of the probabilists, the uncompromising Caramuel, not only admits insuperable ignorance as an excuse for heresy, but also the intellectual deficiency which prevents many minds from grasping the articles of

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Summæ P. II. Q. cxii. Membr. 8.—Guillel. Paris. de Legibus cap. XX.—Gersonis de Vita Spirit Animæ Lect. ii. *in corp.*

[1] S. Th. Aquin. Summæ Sec. Sec. Q. X. Art. 1 *in corp.*

[2] Dom. Soto in IV. Sentt. Dist. V. Q. unic. Art. 2, Arg. 6.—Sayri Clavis Reg. Sacerd. Lib. II. cap. ix. n. 13, 14.—Marchant Trib. Animar. Tom. I. Tract. V. Tit. 2, Q. 1.—Bonal Institt. Theol. Tract. *de Grat. et Gloria*, n. 294.

[3] Alex. de Ales Summæ P. II. Q. clxi. Membr. 1.—Durandi de S. Port. in IV. Sentt. Dist. XIII. Q. V. n. 6.—P. de Palude in IV. Sentt. Dist. XIII. Q. 3, Art. 1, Concl. 1.—Summa Sylvestrina s. v. *Hæresis* I. n. 1.—Armilla Aurea s. v. *Hæresis* n. 1, 2.—Mel. Cani de Locis Theol. Lib. XII. cap. 9.—Dom. Soto in IV. Sentt. Dist. XXII. Q. ii. Art. 3, Concl. 5, Casus 1.—Azpilcuetæ Man. Confessar. cap. XI. n. 22.

Caietano however draws a distinction; there are certain cardinal points of faith in which the mere fact of entertaining disbelief renders a man a heretic. —Caietani Summula s. v. *Hæresis.*

[4] Sayri Clavis Reg. Sacerd. Lib. II. cap. ix. n. 34.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. xvi. n. 32; Lib. II. cap. i. n. 4, 7.

faith; in fact, express belief in the mystery of the Trinity is impossible to untrained minds; no woman understands it, and no man unless he is a philosopher; confused belief is all that can be expected from the mass of mankind, and if more than this is requisite none can be saved except a few theologians. It must suffice to have faith in what the Church believes.[1] All this is somewhat dangerous doctrine, and the later probabilists modify it by adding that the pertinacity need not be formal: it suffices that a heretic knows that the Church thinks differently.[2] Even invincible ignorance and good faith are no palliative in matters that are *de necessitate medii ad salutem.*[3]

If ignorance has thus excited so much discussion on this point it can be imagined that probabilism has likewise been brought to bear upon it. In spite of the caution of Henriquez that the new theories must not be applied to the *media necessaria*, this did not fail to be done in the exultation of discovering and using so powerful an instrument for diminishing the sum of human sin and widening the path of salvation. Juan Sanchez says that Laymann and others err in denying that probabilism is applicable to matters of faith, and he holds that an infidel can adhere to his belief, even if he recognizes it to be less probable than the true faith.[4] This was too dangerous a doctrine to

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[1] Caramuelis Theol. Fundam. n. 1348–51. He adds that the evil lives of priests are no excuse for heresy, though, if he were a peasant, with a priest adulterous, drunken and blasphemous, he would scarce believe him as to changing his religion. Yet all this passed the Roman censorship.

[2] Arsdekin Theol. Tripart. P. I. cap. ii. Art. 4.—S. Alph. de Ligorio Theol. Moral. Lib. II. n. 19.

[3] La Croix Theol. Moral. Lib. I. n. 362, 476. Recent policies have induced a somewhat milder doctrine than this. Marc (Institt. Moral. Alphonsianæ n. 197–8), while asserting that all baptized heretics are subject to the law of the Church, adds that many heretics are not aware of this, and they are easily excusable on account of ignorance. There are also often circumstances rendering it presumable that the Church does not wish to subject heretics to its laws because their observance would occasion too much inconvenience.

In a little popular tract I find a further admission that good faith excuses heresy—"La bonne foi réelle excuse un protestant du péché d'hérésie et lui donne la possibilité de se sauver;" but salvation is much more difficult, for he acks the grace and aid to final perseverance drawn from confession and communion.—Entretiens familiers sur le Protestantisme (Toulouse, s. d.). The series to which this belongs was blessed by Pius IX., May 31, 1862.

[4] Jo. Sanchez Selecta de Sacramentis Disp. XIX. n. 7. Tomás Sanchez also

be allowed currency, but it was not condemned until 1679, when Innocent XI. included it in the list of reproved propositions.[1] Such a decision was of course a necessity, but it was not easily reconciled with the doctrines of probability and material sin. It became requisite to beg the question, as Matteucci does when he proves that by this decree a Lutheran who doubts as to the truth of his faith is bound to leave it, because an examination will inevitably convince him of the greater probability of Catholic doctrine,[2] and Voit tells us that a Jew who recognizes that Catholicism is probable is required to investigate and convince himself of its truth: if he has not opportunity of instruction he should appeal to God, who will not fail to illuminate him. On the other hand, a Catholic who feels doubts as to the faith is not to make inquiry, but must stifle and reject them.[3]

Medicine, law and faith were not the only matters in which the hollowness of the probabilistic theory was shown. We have seen (p. 278) that there is a general consensus that on the death-bed doubtful sins should be confessed in view of the contingencies of that awful moment. Some probabilists applied this rule to the treatment of all sins at death, and that then the safer part should be followed. This is so absolute an abandonment of the whole theory of probabilism that the greater number of probabilists naturally reject it, arguing that it would be rather more perilous than safer to force the dying man to a more rigid standard as to restitution, contrition, etc., than he had been taught was necessary. Still it is good counsel, they admit, to follow the safer course at death, for it pleases God to see that his creature does not wish to disobey him even materially.[4]

We have seen how at the close of the seventeenth century the efforts of the Holy See, resulting in the election of Thyrsus Gonzalez to the

leaned somewhat towards this opinion, but says that on the death-bed every one must follow the safer and more probable opinion.—Viva Comment. in Prop. 4 Innoc. XI. n. 3. Cf. Concina Storia del Probabilismo Diss. I. cap. ii n. 9.

[1] Innocent XI. Prop. 4. "Ab infidelitate excusabitur infidelis non credens ductus opinione minus probabile."

[2] Matthæucci Cautela Confessar. Lib. II. c. iv.

[3] Voit Theol. Moral. I. n. 106-7.

[4] Sporer Theol. Moral. Tract. I. n. 50.—La Croix Theol. Moral. Lib. I. n. 58.

Jesuit Generalate, seemed to give the death-blow to probabilism by depriving it of its main recognized supporter, the Society of Jesus. About the same time the so-called tutiorism was assumed to be condemned. An Irish doctor of Louvain, named John Baptist Sinnick, had expressed the doctrine of the extreme rigorists in the phrase that no probability, even the greatest, sufficed to render an opinion safe, and among the propositions condemned by Alexander VIII., in 1690, was this.[1] The probabilists, who had undergone so many censures, were delighted at one inflicted on the extremists of the other side, and proclaimed that this was a prohibition of tutiorism in general. The tutiorism which they thus declared to be forbidden was rather a creature of their own imaginations than a tenet held by any recognized body of the faithful. The decree of Alexander was not regarded as interfering with the view that the safer side should be chosen, for the Gallican assembly of 1700, while professing obedience to it, prescribed as a precept that in all doubtful cases the safer opinion should be followed.[2] The probabilists however found comfort in demonstrating that tutiorism is impossible, because it would require contrition in the sacrament of penitence while the Church accepts attrition,[3] and La Croix unconsciously reveals how far the moralists had strayed from the commands of Christ, when, in descanting on the insupportable burdens imposed by tutiorism, he points out that it would actually oblige us to refer all our actions to God and to embrace all the counsels of the gospels—or, in other words, that it would conduce to a revival of true Christianity.[4] The anti-probabilists refused to accept the extravagance of Sinnick as their doctrine. Habert says that to follow an opinion morally certain is safe, even though there may be a safer,[5] and Concina argues that the safer opinion may be the less probable; the safer and the more probable are distinct and are deduced from different principles; the safer is that which least exposes to the danger of sin, the more probable is that which approaches nearest to truth.[6] Yet still there

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[1] Alexandri VIII. Prop. III.—"Non licet sequi opinionem vel inter probabiles probabilissimam."

[2] Habert Theol. Moral. *De Conscientia* cap. iv. Q. 1.

[3] Viva Comment. in Prop. 3 Alex. VIII. n. 10.

[4] La Croix Theol. Moral. Lib. I. n. 487.

[5] Habert Theol. Moral. *De Conscientia* cap. v. Q. 1.

[6] Concina Theol. Christian. contracta Lib. II. Dist. ii. cap. 2, n. 6.

is an echo of the rigorism of the medieval Church in their adherence to the old rule that in doubtful matters the safer part is to be adhered to. If a man doubts that a law exists he must hold it as existing, if he doubts whether a case is reserved he must abstain from absolving for it, if he doubts whether he has confessed a sin or whether it is mortal he must confess it, if he doubts as to a vow or its obligation he must observe it. But then, like all other attempts to formulate a system, it became necessary, in order to make this work in practice, to define that scruples are not doubts; scruples may arise from mental weakness, or ignorance, or temptation of the devil, or as a punishment from God, and when it is asked how they are to be distinguished, the only answer is by prayer, by study, and by the advice of prudent men.[1]

Probabilism had been scotched, not killed, by the efforts of the Holy See in the latter half of the seventeenth century. With the opening of the eighteenth, the eagerness with which the papacy embarked, under the lead of the Jesuits, in the controversy over Attrition and the condemnation of Quesnellism showed that its policy had changed and that laxism had little to fear from it. In the very year of the death of Gonzalez, 1705, appeared the Jesuit Francolini's "Clericus Romanus contra nimium rigorem munitus," with the approbation of the General Tamburini, and this was followed by the works of other Jesuits—Viva, La Croix, Casnedi, Vogler, Voit, Reuter, etc. Nor was the defence of probabilism confined to the Society, as the works of Sporer, Reiffenstuel and Roncaglia show, to which may be added the mitigated probabilism of Amort. That the other side was not inactive is seen in the theologies of Antoine, Habert and others, but the most active controversialists were the Dominicans, whose ancient hatred of the Society of Jesus had lost little of its intensity. Throughout the first half of the century there had been had a perpetual warfare of tracts and pamphlets, and towards the middle the Dominicans Daniele Concina and Gianvincenzo Patuzzi stood forth as the leading champions of their Order. The Holy See, as a rule, held aloof and impartially put on the Index the writings of either side when they became too sharply aggressive. Benedict XIV. praised Liguori and

[1] Wigandt Trib. Animar. Tract. II. Exam. 1, n. 15; Exam. 2, n. 2–3.—Alasia Theol. Moral. *De Act. Humanis* Diss. ii. cap. 5, Q. 5.

accepted from Concina the dedication of his *Theologia Christiana.* In his instructions to confessors for the Jubilee of 1750, he quotes the denunciation of lax methods of opining with which Alexander VII. prefaced his decree of 1665, but a curious difference between the Latin and Italian versions of the bull indicates a desire to conciliate both parties, and elsewhere he points out that the Holy See is not accustomed to decide against opinions accepted by the doctors without grave cause.[1] In 1761 occurred a circumstance which afforded much comfort to the probabiliorists. The parish priest of Avisio, in 1760, issued a leaflet containing eleven propositions which he offered for public disputation. They contained scarce more than the common-places of probabilism—that it is lawful to follow the less probable opinion favoring liberty and that probabiliorism is dangerous and leads to rigorism—but his diocesan, the Bishop of Trent, condemned them and sent them to the Holy Office to procure a confirmation of his decision. The matter was debated in full congregation before Clement XIII., and the condemnation was approved. The triumph of the probabiliorists was short, however, for Liguori wrote to the Master of the Sacred Palace, to the Secretary of the Index, and to the Major Penitentiary, Cardinal Galli, who assured him that it was not intended to condemn any propositions disputed in the schools and catholically defended. They abstained carefully, however, from specifying which of the propositions had evoked the censure, and the leaflet has remained on the Index.[2] When, in 1786, the Synod of Pistoia declared that truth should be the sole rule of human actions, and that ignorance, inadvertence and probability furnish no excuse for sin,[3] eager as was the curia to discover and

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[1] Bened. PP. XIV. Bull. *Apostolica Constitutio* § 21, 26 Junii 1749 (Bullar. III. 70). In the vernacular he instructs the confessor in doubtful cases to consult many books "e poi prenda quel partito che vedrà *piu* assistito dal ragione e dall' autorità." This is pure probabiliorism, but in the Latin version the *più* is omitted. Liguori, of course (Istruzione practica cap. 1, n. 42) insists that as the Latin is intended for all Christendom it is the more authoritative.

In the *De Synodo Diœcesana* (Lib. XII. cap. 5, n. 15) he says "Quin etiam ipsa Apostolica Sedes cavere solet ne quid novi contra jus commune receptasque doctorum opiniones sine gravi causa decernat."

[2] S. Alph. de Ligorio Theol. Moral. Ed. 1767, pp. 21–22; Ejusd. Diffesa della Dissertazione sull' usu moderato dell' opinione probabile § 4.—Index Clem. XIV. 1770, p. 304; Index Leon. XIII. 1887, p. 260.

[3] Synod. Pistoriens. Sess. III. § 13.

condemn errors in its utterances, this proposition escaped the censure of the bull *Auctorem fidei.* Gerdil, one of the most learned and respected members of the Sacred College, who was elevated to the cardinalate, in 1777, by Pius VI., had distinguished himself as an eloquent and acute opponent of probabilism.[1] Had he been chosen as the successor of Pius, in the conclave of Venice in 1800, as was probable but for the opposition of the Emperor Francis II., the development of modern moral theology might possibly have been different.

Concina, in 1742, proclaimed the battle against probabilism to be already won, and he seemed to have fair reason for his exultation when he could point to the decrees of Alexander VIII. and Innocent XI., the action of the assemblies of the Gallican Church, the condemnations by universities and by nearly all the religious Orders and the pastorals of many bishops, while in its favor there was not the authorized expression of a single pope, bishop, synod, university or religious Order—only the writings of a few theologians.[2] Had he been able to foresee the approaching downfall of the Society of Jesus he would have felt doubly assured, for the Jesuit theory of morals was one of the powerful levers worked for its destruction. In the first suppression, that in Portugal, this does not figure much, though the royal manifesto of 1759, justifying the expulsion, dwells largely on the errors taught by the Jesuits, especially as to murder, tyrannicide and perjury.[3] The fatal blow, however, was that administered, in 1762, by their suppression in France. The Parlement of Paris had suffered too much in its prolonged resistance to the constitution *Unigenitus* not to have treasured up a wealth of bitter memories; it was strongly Jansenistic, and it recognized in the lax probabilistic teachings of the Order the surest means of attracting popular support. By an *arrêt* of August 6, 1761, it ordered the burning by the executioner of the books of twenty-four Jesuit authors—including Toletus, Sa, van Beek, Bellarmine, Tanner, Gregory of Valencia, Gabriel Vazquez, Busenbaum, La Croix, Escobar, Lessius, Azor, Molina—the chief motive alleged for which was their teaching on

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[1] Gerdil Theol. Moral. Lib. II. Q. ii. iii.—Saggio sul Discernimento delle opinioni, § ii.

[2] Concina, Storia del Probabilismo, Diss. I. cap. 5, n. 35.

[3] Manifeste du Roi de Portugal, Amsterdam, 1759.

regicide, but morals were included.[1] Clement XIII. interceded energetically for the Society; Louis XV. was opposed to its suppression, and ordered the *arrêt* suspended. The Parlement then laid before him, September 4, a collection of extracts from Jesuit works concerning murder, tyrannicide and the papal supremacy; this he referred to fifty-one bishops assembled in Paris, forty-six of whom united in an argument in favor of the Society, while Père Balbani had no difficulty in showing that the doctrines complained of had been taught by the greatest doctors of the Church before the time of Loyola.[2] Meanwhile the Parlement had ordered a more comprehensive collection of lax doctrines extracted from Jesuit works. It was systematically arranged, was printed in Latin and the vernacular and appeared in four volumes in 1762.[3] This compilation, from its official character, had an immense effect on public opinion, and was the final blow which enabled the Parlement to accomplish its object. In an official letter to the Procureur Général of the Parlement of Toulouse, the Bishop of Castres declares "It is this fatal work which has caused their ruin in several parlements of the kingdom and threatens to consummate it in all the others."[4] The Jesuits vainly endeavored to parry the attack in two ways which were mutually contradictory. One was by printing a collection of opinions by non-Jesuits, to show that lax casuistic morality was not confined to the Society. The other was a laborious criticism in three quarto volumes of the *Extraits et Assertions* to prove that it was garbled and unfair, in which they made out a list of 758 errors and falsifications. The compilers of the *Extraits* had done their work hurriedly and had not been more solicitous of accuracy than is customary in political controversy, and there was no difficulty in pointing out a good many mistakes and exaggerations. Yet, after all allowance was made for recklessness, haste and malignity, the writings of the Jesuit casuists

[1] Isambert, Anciennes Loix Françaises, XXIII. 312.

[2] Picot, Mémoires pour servir á l'Histoire Ecclésiastique du dix-huitième Siècle, 2e Ed. T. II. pp. 405–7.—Balbani, Appel à la Raison des Écrits et Libelles publiés par la passion contre les Jésuites de France. Bruxelles, 1762.

[3] Extraits des Assertions dangereuses et pernicieuses en tout genre que les soi-disant Jésuites ont de tous les temps et pérséverament sontenues, enseignées et publiées dans leurs livres avec l'approbation de leurs Supérieurs et Généraux, vérifiées et collationnées par les Commissaires du Parlement, etc. Paris, chez P. G. Simon, Imprimeur du Parlement, 1762.

[4] Actes du Clergé de France en faveur des Jésuites, P. II.

afforded a solid substratum of lax teaching sufficient to shock the moral sense of a community in which the theological training for two generations had been of a more rigid kind. Of course the Jesuits were not solely responsible for this, but the Society had been so conspicuous as the defender of probabilism when it was generally decried, that all efforts to disclaim responsibility were vain; it still had many friends in the court and the episcopate, but all resistance was overborne, and the cry of Jansenism which had so often served its purpose was useless for once. In the final *arrêt* of suppression, August 6, 1762, the detail of its immoral teaching occupies a notable space and contributes largely to the conclusion that its existence is inadmissible in any well-ordered state.[1]

It was in vain that, in 1764, Clement XIII. confirmed all the approbations of the Society uttered by his predecessors, denouncing the depraved efforts of wicked men to prove it irreligious, and declaring it to be redolent of piety and sanctity.[2] When, in 1767, Carlos III. of Spain followed the example of France by the sudden and secret deportation of the Jesuits, the justifications which the bishops issued to their flocks to quiet the public mind dwelt forcibly on the evils to morality arising from the probabilism and casuistry of the Society.[3] After the suppression, one of the early measures of the king was a royal order of January 23, 1768, to all the universities of the kingdom, to abandon the use of the *Medulla* of Busenbaum, which was generally employed as a text-book, and later cédulas suppressed the teaching of the Jesuit school (*escuela llamada Jesuítica*) in all institutions of learning.[4] When Carlos subsequently was urging vigorously on Clement XIV. the total suppression of

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[1] Isambert, XXIII. 335–46.

[2] Clement PP. XIII. Constit. *Apostolicum*, 7 Jan. 1764. This bull called forth three letters, printed in Naples in 1765, which the Inquisition denounced September 4, 1765, as execrable and detestable, and ordered burnt as full of propositions erroneous, false, ill-sounding, favoring schism, audacious, calumnious, seditious and inordinately insulting to the authority of the Apostolic See. They remain on the Index (Index Leonis PP. XIII. 1887, p. 185).

[3] Recueil des Piéces concernant les Jésuites d'Espagne, Paris, 1768, IXeme Série, p. 43; XIeme Série, pp. 26, 43.—Carta de Edicto de Don Manuel de Palmero y Rallo, Obispo de Gerona, p. xxiii. (8 Feb. 1768).—Pastorales de Don Francisco Armaña, Obispo de Lugo, pp. 324–30.

[4] Recueil des Piéces, IXeme Série, p. 77.—Novísima Recopilacion, ley 4, Tit. 4, Lib. VIII.; ley 4, Tit. 5, Lib. VIII.

the Society, one of the reasons which he alleged was the corrupt morals and doctrine that its members had taught in his states, and in this he was supported by letters from forty Spanish bishops.[1] In the brief of suppression, however, the subject of their laxity of teaching is only alluded to cursorily.[2]

There was a Nemesis in this, for the Jesuits in their long struggle for probabilism had found a most effective weapon in stigmatizing their opponents as Jansenists. This began early. When Prosper Fagnani, the leading canonist of his day and one of the most honored officials of the curia, wrote a defence of probabiliorism, Caramuel

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[1] Theiner, Hist. du Pontificat de Clément XIV. T. II. p. 108.

While Clement was hesitating over the suppression he seems at one time to have contemplated a reform of the Society, of which one feature was to be the subjection to the bishops of the Jesuit theology and morals (Ibid. p. 203).

[2] Clement. PP. XIV. Const. *Dominus ac Redemptor* § 22 (21 Julii, 1773).

In his defence of the Jesuits, Father Borgo enumerates among the means used to bring about their fall, "falsi errori attribuiti: azioni ed opinioni giusti o almeno niente ree, in reo aspetto e senso travolte: falsificazioni orrende d, scritture, di dati teste;" and he speaks of Concini as "Quel fanatico di Fr. Concini da Roma stessa e sotto gli occhi della Curia Romana affastellava de' tomi e de' tomi di calunniose falsificazioni ed impudentissime imposture contro i più celebri autori della Compagna."—Memoria Cattolica, Cosmopoli (Roma), 1780, pp. 25, 82.

For the history of this audacious attempt to prove the nullity of the brief of suppression see De Backer, II. 76, VII. 127. It is no wonder that it was burnt by decree of Pius VI., June 13, 1781, and that Luigi Perego the printer was imprisoned, for it characterizes the papal decree as "un perpetuo tessuto d'imposture, di falsità, di calunnie, d'insulti" (p. 55), and speaks of "per chiuder la sozza bocca dello Stenditore malizioso" (p. 86). In spite of the condemnation, in 1787 Borgo issued "Anecdoti interessanti di Storia e di Critica sulla Memoria Cattolica," in which the Memoria was reprinted bodily, and this was never placed on the Index.

As if to show how completely casuistry had destroyed the moral sense of the Society, the General Ricci admits (Memoria, p. 148) that when, in 1772, the suppression was anticipated he applied to the heretic Frederic the Great to assume the protection of the Order. When the dissolution was decreed, Frederic and the schismatic Catherine II. withheld permission for its publication in their dominions, and the Jesuits domiciled there refused obedience to it and maintained their organization, acting apparently on the reflex principle that a law insufficiently promulgated is not binding. In 1801, Pius VII. rewarded their disobedience by recognizing them (Const. *Catholicæ fidei*, 7 Mart, 1801), and they served as the foundation for the reconstruction of the Society in 1814 (Const. *Sollicitudo omnium*, 7 Aug., 1814).

in attacking him denounced him as a Jansenist in his *Apologema pro antiquissima et universalissima doctrina de Probabilitate*, which on that account was placed in the Index by decree of January 15, 1564.[1] Cardinal Aguirre states that all who assert the old rule of following the safer way are stigmatized by the Jesuits as Baianists and Jansenists; he is thus accused, and even Innocent XI. is similarly abused,[2] while there were Jesuits who did not hesitate to accuse their general, Thyrsus Gonzalez, of the same heresy.[3] Terrill declared that Jansenism was the mother of probabiliorism, and La Croix in quoting this adds that they could devise no more effectual means of rendering the divine precepts impossible and the sacraments odious.[4] Francolini, as approvingly cited by Liguori, says that the speculative theology of the Jansenists is Jansenism, their moral theology rigorism; their three principles are to exalt the authority of the Fathers, to depress that of the popes, and to allow none to modern theologians.[5] Concina complains that the anti-probabilists could not preach or write the truth without being told that they drew their inspiration from Arnauld and Pascal and even from Luther and Melanchthon.[6] A worthy part of this warfare was the revival of the fable of the conference of Bourg-Fontaine, where it was said that in 1621 Cornelis Janssen, Duverger de Haurenne, Antoine Arnauld, Philippe Cospéan, Pierre Camus, Simon Vigor, and a seventh whose name was concealed, had conspired to overthrow Christianity and replace it with Deism, under pretext of reviving the doctrines of St. Augustin. In 1654, Jean Filleau, under Jesuit inspiration, gave this portentous story to the world, but it soon fell into oblivion, to be revived, in 1756, with comments to prove that the rigorists or so-called Jansenists were secretly engaged in undermining the Christian faith. In this form it was translated

[1] Döllinger u. Reusch, I. 123.—Index Alex. VII. Romæ, 1664, p. 398.

[2] Aguirre Concil. Hispan. *Ad Lectorem* n. 37.—Döllinger u. Reusch, I. 186. If there was truth in the report that Innocent XI. contemplated bestowing a cardinal's hat on Antoine Arnauld, it is no wonder that he was stigmatized as a Jansenist.—Grégoire Hist. des Confesseurs des Empereurs etc., p. 158.—Reusch der Index der verbot. Bücher, II. 480.

[3] Concina, Storia del Probabilismo, Diss. II. cap. vi. § 7.

[4] La Croix Theol. Moral. Lib. I. n. 293.

[5] Francolini Clericus Romanus contra nimium rigorem munitus, Procem.—S. Alph. de Ligorio Theol. Moral. Diss. Prolegom. P. I. cap. vi. n. 6.

[6] Concina, Storia del Probabilismo, Introd. § 1, n. 1, 2.

into various tongues and widely circulated with the due approbation of the ecclesiastical authorities.[1] This fruitful device of identifying rigorism with Jansenism continues to the present time. We have seen above (p. 35) the use made of it by Father Müller. Scavini does not hesitate to say that opposition to probabilism was never heard of before the time of Cornelis Janssen and his sectaries; he holds them up as vigorously as ever to the abhorrence of the faithful and deplores that their doctrines continue to be taught under a different name.[2] The fact is that the Gallican Church disappeared in the Revolution, and when it was reconstructed by Napoleon in the Concordat it had not the organization and the traditions with which to maintain the struggle for its liberties. The last barrier to the encroachments of Rome was broken down; to the papal mind Gallicanism, Jansenism and rigorism were connected as the embodiment of the forces inimical to the autocracy of the Holy See. With the disappearance of its opponent it celebrated its adherence to laxism in the beatification of St. Alphonso Liguori in 1816, and his canonization in 1839, and as recently as 1864 a French theologian congratulates France on its emancipation from the last vestige of Jansenism through the influence of Liguori, whose doctrines had been canonized rather than his person.[3]

Concina was evidently premature in his pæan of triumph, and even the downfall of the Jesuits was powerless to avert the final triumph

[1] P. Gabbriello Silvani, Della Falsitá del Progetto di Borgo-Fontana, Firenze, 1788.

I have three editions of this amplification of Filleau's story—

Veritas Concilii Burgofonte initi ex hujus executione demonstrata, seu verum Systema Jansenismi et evolutio mysterii iniquitatis. Opus Gallico primum sermone conscriptum, 2 tom. 8vo. Augustæ Vindel. 1764.

La Realtá del Progetto di Borgo-Fontana dimostrata della sua esecuzione. Opera che mette in vista la cabala artifiziosa de' Novatori di Francia e di Olanda per esterminare la Chiesa e l'efficacia delle promesse di Giesù Cristo in preservarla con eterna confusione de' suoi Nemici. Edizione terza Italiana, 2 tom. 8vo. Assisi, 1787.

Beweis von der Wirklichkeit der Zusammenkunft in Bourgfontaine etc. 2 tom. 8vo. s. l. 1793.

[2] Scavini Theol. Moral. Tract. I. Disp. ii. Cap. 3, Art. 2, § 3, A. Q. 4; Ibid. Tract. I. Not. G. J. M.

[3] Vindiciæ Alphonsianæ, p. xxix.

of the cause which they had upheld with such superb audacity. Probabilism and the new theology, in fact, were a necessity to the Church, if only to hide the impossibility of the confessional being the judgment-seat which it had always been assumed to be. To this the anti-probabilists shut their eyes; they could not see that they were clamoring for the impracticable; they had the best of the argument, and they seemed to have won the victory. Yet a new defender of the apparently vanquished cause had arisen, in the person of Alphonso Liguori, who, by making a few concessions of form, rather than of principle, revived the declining cause and opened the way to its eventual domination. Before examining his labors, however, we must pause to consider a very radical change which had taken place in the processes of probabilism, which, without modifying its results, had essentially altered the methods of reaching them. This was the development of what is known as reflex probabilism.

In the original direct probabilism of the seventeenth century, as we have seen, whenever there were two more or less probable opinions as to an act, the actor could select which he pleased without regard to their degree of probability or safety. No man could act with a doubtful conscience, but probability gave him a sufficient degree of moral certainty; he could safely act with a probable conscience, irrespective of the ultimate truth or falsity of the probable opinion on which he acted, and the phrase *qui probabiliter agit prudenter agit* was accepted as an axiom.[1] As La Croix puts it, a man who acts with a doubtful conscience sins; in constructing the syllogism which leads to his determination he must not say that its lawfulness is certain, but that it is probable; to this a prudent man can assent, for it certainly is so, and this leads to a certain conclusion.[2] Or, as Laymann says, the certainty which justifies action on a probable opinion is the fact that in the opinion of the doctors it is probable.[3]

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[1] Nam cum quælibet opinio tutam reddat conscientiam in operando, non minus tutus erit operans juxta unam quam juxta aliam opinionem.—Jo. Sanchez Selecta de Sacramentis Disp. XLIV. n. 66.

Et dum opinio hanc certitudinem de probabilitate habet est tuta; ea enim tuta est quæ peccatum excludit, et in hoc quod est peccatum excludere nulla opinio est tutior quam alia.—Mendo Epit. Opin. Moral., Discursus prælegendus n. 7.

[2] La Croix Theol. Moral. Lib. I. n. 303–6.

[3] Layman Theol. Moral. Lib. I. Tract. 1, cap. 5 § 2, n. 8.

Alongside of this there had gradually grown up the use of what are known as reflex principles, not for the determining of general speculative questions as to the probable lawfulness of acts, but as valuable aids in resolving special cases. The earliest of these, which has been alluded to in the preceding chapter, is the rule that invincible ignorance excuses from sin. Already in the time of St. Bernard it had been thus employed, and the saint condemns it, though as yet it was far from enjoying the extension which it received at the hands of the casuists.[1] Gratian quotes from the pseudo-Augustin that they alone can plead ignorance who have had no opportunity of instruction,[2] and he further asserts that in adults ignorance of natural law is damnable.[3] John Nider regards sins of ignorance as the most dangerous of all; the sinner does not know that he has committed sin, and therefore cannot repent and confess, yet he is not excused.[4] St. Antonino re-echoes this, adding the received maxim included among the rules of law collected by Boniface VIII., that ignorance of fact excuses, but not that of law.[5] This distinction was abandoned, and invincible ignorance became a fruitful source of releasing sinners from responsibility for their actions; we have seen how it even led to a sort of speculative toleration for heresy and paganism. Moreover, the degree of culpability of the ignorance regulates the culpability of the sinner; if ignorance is venially culpable it reduces a mortal to a venial sin.[6] Christ evidently was in error when he prayed God to forgive his crucifiers, for they knew not what they did; the probabilist knows better, and asserts that if they were invincibly ignorant they committed no sin.[7] The degree of diligence requisite to excuse from error in cases of doubt varies with the temper of the theologian. Valère Renaud lays down requirements which are almost impracticable.[8] Modern authorities are less harsh. A conscience is invincibly erroneous when ordinary diligence fails to indicate the error. To follow such an erroneous conscience leads to

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[1] S. Bernardi Serm. de Diversis XXVI. n. 2.

[2] Ps. August. Quæstiones ex Novo Test. Q. 67.—Can. 16 Dist. XVII.

[3] C. 12 Caus. 1, Q. 4.

[4] Jo. Nider Præceptorium Divinæ Legis, Præcept, III. cap. viii.

[5] S. Antonini Summæ P. I. Tit. xx. (Ed. Venet. 1582, T. I, fol. 291, col. 4).

[6] Sayri Clavis Reg. Sacerd. Lib. II. cap. ix. n. 33.

[7] La Croix Theol. Moral. Lib. I. n. 361.

[8] Reginaldi Praxis Fori Pœnit. P. I. Tit. xi. n. 28.

no sin, for it is a *conscientia recta*, whether it be true or false, and to disobey its commands is sin, though the action may be innocent.[1] How exceedingly lax the definition of invincible ignorance has become is seen in Gury's argument to prove that the more probable opinion may be abandoned for the less probable: No man is bound who is invincibly ignorant of the obligation; but *ex hypothesi* I am invincibly ignorant of the obligation when it is uncertain or not certainly known; therefore I cannot judge myself to be bound; therefore I cannot know myself to be bound; therefore I am not bound.[2] Thus invincible ignorance may exist whenever there are two opposite probable opinions.

The two reflex principles however which exercised the greatest influence on the later probabilism were the maxims that the condition of the possessor is the better—*melior est conditio possidentis*—and that a doubtful law is not obligatory—*lex dubia non obligat.* A number of subsidiary ones are enumerated by some of the moralists, but our purpose will be answered by a brief consideration of these. The recognition of their applicability to morals was simultaneous, or nearly so, but while the capabilities of the former in the hands of skilful dialectitians was speedily recognized, the full development of the latter was of slower growth.

As a legal rule the advantage of possession was embodied in the canon law by Boniface VIII. in 1298.[3] St. Antonino treats it wholly as a matter of the *forum contentiosum*, and confined to the sphere of litigation,[4] but the moralists soon extended its application. Prierias, for instance, tells us that in case of frauds on the revenue, when there is doubt the confessor is not to compel restitution, because the possessor is entitled to the advantage of his position;[5] and in the second half of the sixteenth century Azpilcueta shows the tendency to extend its application to the *forum internum.*[6] About 1600 Carbone shows that its use in morals was becoming

[1] Bonal Institt. Theol. T. V. *De Act. Human.* n. 102, 107, 109.—Marc Institt. Alphons. n. 16, 21, 22.—Stapf Epit. Theol. Moral. § 54, n. 2, 3.

[2] Gury Comp. Theol. Moral. I. 60.

[3] In pari delicto vel causa melior est conditio possidentis.—Reg. Juris lxv. in Sexto, *ad calcem.*

[4] S. Antonini Summæ P. I. Tit. xx. (Tom. I. fol. 294, col. 1).

[5] Summa Sylvestrina s. v. *Gabella* III. n. 29.

[6] Azpilcuetæ Comment. cap. *Si quis autem* n. 4.

recognized when, in debating the question of obedience to the evil command of a superior, he argues, "If you argue that the superior is in possession of your obedience, I answer that the subject is in possession of his life and reputation, the loss of which is threatened."[1] Soon afterwards Tomás Sanchez debates the matter at much length, in a manner to indicate that it as yet was a novelty in the schools. He admits that it is generally regarded as appertaining only to law, but thinks it more probable that it can be used in solving doubts of conscience. In these, as between law and liberty, possession stands against the side on which rests the burden of proof, as in the courts. If I know that I have incurred a debt and doubt whether I have paid it, I must pay it; if I have made a vow and doubt whether I have performed it, I must perform it; possession stands for the obligation, and the burden of proof is on me.[2] This is a key to the attitude which the moralists were taking. They regarded a doubt of conscience as a litigation between the law on one side and liberty, or the desire of the individual, on the other, in which the conscience acted as judge, and either side was entitled to the benefit of any legal subtilties that it could suggest. This curious attitude is concisely expressed by Father Terrill when, in defending the doctrine of possession, he says that it equally favors God against us and us against God.[3] The result of this was of course unfortunate, for it opened the door to all the refinements of casuistry and subordinated the simple ideas of right and wrong till they sometimes disappeared.

The doctrine of possession was of essential service to probabilism, for it enabled the moralists to explain away the old rule that in doubt the safer part must be chosen. The two axioms were declared to be in no way antagonistic, as had commonly been thought, but to be mutually supporting and explanatory, for it is always safer to side with the part in possession.[4] The ingenuity of the casuists rapidly developed it and applied it to all kinds of questions, and it was found

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[1] Carbonis Summæ Summar. Cas. Conscient. T. I. P. I. Lib. 5, cap. 14.

[2] Th. Sanchez in Præcepta Decalogi Lib. I. cap. x. n. 9–13.

[3] Concina Theol. Christ. contr. Lib. II. Diss. ii. cap. 7, n. 2. As Marc puts it (Institt. Mor. Alphons. n. 40), law and liberty litigate together, and the actor is the judge to decide according to the reasons on either side.

[4] Jo. Sanchez Selecta de Sacramentis Disp. XLII. n. 13.—Marchant Tribunal. Animar. Tom. I. Tract. V. Tit. iv. Q. 4.—Busenbaum Medull. Theol. Moral. Lib. I. Tract. 1, cap. 2, Dub. 3.

so efficacious that Caramuel enthusiastically describes it as a lighthouse to guide the bewildered moralist through the darkness of doubts.[1] Its ordinary application can be understood by an example which has been transmitted for two centuries and a half from one generation of writers to the next. On the eve of a fast day a man eats meat, doubtful whether midnight has struck or not; he commits no sin, for liberty is in possession; he eats meat on the night of a fast, under the same doubt; he sins, for law is in possession.[2] This ingenious method of solving doubts which are otherwise impenetrable has much to recommend it as a portion of the general effort to limit the obligations of the Christian and enable him to win salvation at the least possible cost, and as such it well merits the eulogium of Caramuel. In many cases, however, it only removes the difficulty a single step; the question as to which side is entitled to the benefit of possession is often intricate and obscure; the rule laid down by Tomás Sanchez, that it is against the one on which rests the burden of proof is still relied upon,[3] but theologians admit that this is not always easy to define and various subsidiary principles are introduced to elucidate it and extend its operation. Liguori tells us that when it is probable that the obligation of the law has not commenced or has ceased the presumption in favor of the law disappears and possession stands for liberty, while his commentator, Marc, assures us that the cases in which the law is in possession are much fewer than those in which liberty is.[4] This is virtually the same as the dictum of La Croix

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[1] Caramuelis Theol. Fundam. n. 2.—"In dubiorum tenebris et caligine est pharos illa regula, *Beatus qui possidet*."

[2] Jo. Sanchez Selecta de Sacramentis Disp. XLII. n. 15; XLIII. n. 5.—S. Alph. de Ligorio Theol. Moral. Lib. I. n. 32.—Gury, however (*Casus Conscientiæ*. I. 65, 66) argues against Liguori that even in the second case eating meat is allowable. He relies not on the question of possession but on the reflex principle that a doubtful obligation is not binding. It is a good illustration of the facility with which the reflex principles can be applied to produce any required conclusion.

[3] Scavini Theol. Moral. Tract. I. Disp. ii. cap. 3, Art. 2 § 2 Q. 8.—S. Alph. de Ligorio Theol. Moral. Lib. I. n. 26; Istruzione practica, c. 1, n. 14.—Marc Institt. Moral. Alphons. n. 47.

[4] S. Alph. de Ligorio Theol. Moral. Lib. III. n. 112, Q. 3.—Marc Institt. Moral. Alphons. n. 98.

This apparently is one of the subjects in which the Ligorian disciples find it troublesome to establish the shadowy distinction between their master's real probabilism and affected equiprobabilism.

that when there is a probable reason possession prevails against a greater probability;[1] or, as Arsdekin puts it, a man is always in possession of his liberty and cannot be deprived of it by a doubtful precept.[2]

The limitless opportunity thus afforded for the exercise of casuistic ingenuity and the ease with which the doctrine of possession could be made to reach any desired conclusion is seen in its use by contending moralists to prove either side of a question. Thus in the prolonged debate as to the repetition of a confession of which the validity is doubtful, the probabilists proved the negative because possession stands for a confession of which the invalidity is uncertain, while the rigorists proved the affirmative because the obligation of the precept is in possession.[3] Another celebrated controversy, whether, when a sin has been certainly committed and the sinner is doubtful whether he has confessed it, he is obliged to confess it, was similarly solved in either sense; the probabiliorists insisted that the law of confession is in possession, the probabilists that possession stands with liberty.[4] A still more controverted phase of the same general question relates to the confession of doubtful sins. A lax probabilist like La Croix asserts that in such case a man is in possession of his innocence and liberty; a moderate probabilist like Reiffenstuel asserts that possession stands for the obligation of confession, and that up to the middle of the seventeenth century this was almost the universal opinion and practice.[5] It is true that in 1699 we have the repetition by the papal Penitentiary of the old rule that possession is applicable only in litigation, and not in the forum of conscience,[6] and this continued to be the doctrine of the rigorists,[7] but it was too important

[1] La Croix Theol. Moral. Lib. I. n. 364.

[2] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 4.

[3] Liguori Theol. Moral. Lib. VI. n. 505.—Antoine Theol. Moral. De Pœnit. Art. ii. Q. 12.

[4] La Croix Theol. Moral. Lib. I. n. 273.

[5] La Croix Lib. VI. P. ii. n. 607–8.—Reiffenstuel Theol. Moral. Tract. XIV. Dist. vii. n. 56.

[6] Nam regula dicta procedit in materia justitiæ et in foro judiciali dumtaxat, non in materia aliarum virtutum et in foro conscientiæ, secundum veriorem sententiam.—Syrus Placentinus dilucidatio Facultatum Minorum Pœnitent. Procem. Q. viii. (Romæ, 1699.)

[7] Habert Theol. Moral. *De Conscientia* cap. iv. Q. 1.—Piselli Theol. Moral. Summæ P. I. Tract. 1, cap. 2.

an element in reflex probabilism to be abandoned, and its application to morals is accepted as a matter of course and practised by the Ligorian school which is now dominant everywhere.[1]

Even more important than this, however, in the reigning theology, is the reflex principle that a doubtful or insufficiently promulgated law does not obligate. This is closely allied with the theories of inculpable ignorance, and we have already seen (pp. 248, 352) the variations in the teaching of the Church as to ignorance of natural and divine law. The canon law gives no support to such a principle, for it embodies a decretal of Innocent III., in the case of the Bishop of Hildesheim, who had celebrated mass after papal excommunication, and pleaded in extenuation that he had only heard of the sentence by public report, he had received no letters and doubted the jurisdiction of the Archbishop of Magdeburg, whom the pope had deputed for the purpose. Innocent sternly brushed aside all these excuses; as in doubtful matters, the safe course is to be followed, he should have abstained from the sacraments even if he doubted the sentence.[2] We have also seen that in the rules collected by Boniface VIII. and included in the canon law is one which, while it admits the excusatory power of ignorance of fact, asserts that ignorance of law is no excuse.[3] Aquinas is the main reliance of the probabilists who base

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[1] A practical example of the use that can be made of the doctrine of possession is its elucidation of the long-debated case of an adulterer whose child is brought up with the legitimate offspring of the husband and shares their patrimony. If the father has no doubts as to his paternity he is bound to restitution. If he has doubts, he is bound to nothing, for the marriage is in possession, and moreover he is in possession of not satisfying the injury.—Liguori, Istruzione pratica, cap. x. n. 102.

So if a man who borrows or hires a thing loses it and doubts whether his negligence was at fault, he is not bound to restitution, for a fault is not to be presumed and he is in possession of his innocence.—Jo. Sanchez Selecta de Sacram. Disp. XLIII. n. 11.—Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 9.

At the same time there is one case in which probabilism is more potent that possession. Marchant tells us (Trib. Animar. Tom. I. Tract. V. Tit. IV. Q. 4, Concl. 1) that if a man doubts his right to a property, and the adverse reasons are the stronger, possession does not help him, and he must have recourse to probability.

[2] C. 5 Extra V. xxvii.—For Liguori's attempt to explain this away see his *De Usu moderato*, n. 53.

[3] Ignorantia facti non juris excusat.—Reg. Juris xiii. in Sexto *ad calcem*.

their arguments on his dictum that a law to be binding must be promulgated and brought to the notice of those subject to it, but he adds that the law of nature is promulgated by God impressing it on the human mind to be naturally known,[1] while elsewhere he says that ignorance of law is no excuse, unless it be the invincible ignorance of insanity or idiocy, for that ignorance itself is a sin; a man who does not confess a sin because through ignorance of divine law he does not know it to be a sin makes a fictitious confession,[2] and, moreover, he expressly asserts that where there is doubt a man must act according to the letter of the law or consult a superior.[3] The lax morality of the nineteenth century evidently finds small warrant for its sophisms in the simplicity of the thirteenth.

The early probabilists taught a different doctrine from this, though apparently they regarded the matter rather as a subsidiary means of determining doubtful questions of possession, and even as to this they were not wholly agreed. Tomás Sanchez asserts that when, after due diligence, the existence of a law or precept is uncertain, Vazquez holds that it is binding, and so does Salas, providing it does not cause too great inconvenience or danger, but it is much truer that in such case the law does not obligate, whether it is natural or positive, divine or human, for then liberty is in possession. Besides, no one is bound by a law which is not sufficiently promulgated to him, and so teach Suarez, Henriquez and Sa. But if the law is certain and there is doubt as to its application or abrogation it is in possession and must be obeyed, though if there are two opinions on the subject the less probable can be followed against the more probable.[4] The matter seems to have attracted little attention and to have been regarded as

[1] S. Th. Aquin. Summæ I. II. Q. xc. Art. 4. There is another dictum of Aquinas which affords great comfort to the probabilists.—"Nulius ligatur per præceptum aliquod nisi mediante scientia illius præcepti"—but they always omit what follows "nec aliquis ignorans præceptum Dei ligatur ad præceptum faciendum nisi quatenus tenetur scire præceptum."—De Veritate Q. XVII. Art. iii.

[2] Quod ignorantia juris non excusat, quia ipsa peccatum est. Unde aliquis de hoc quod non confitetur peccata quæ nescit esse peccata propter ignorantiam juris divini non excusatur a fictione.—S. Th. Aquin. in IV. Sentt. Dist. XXI. Q. ii. Art. 2 ad 4. Cf. Quodl. III. Art. x., xxvii.

[3] Si enim dubium sit debet vel secundum verba legis agere vel superiorem consulere.—Ejusd. Summæ I. II. Q. xcvi. Art. 6 ad 2.

[4] Th. Sanchez in Præcepta Decalogi Lib. I. cap. x. n. 32–35.

practically unimportant. Juan Sanchez, one of the most lax of moralists, makes no direct allusion to it, and virtually denies it when he says that if there is doubt whether a law is annulled by a subsequent one, or whether necessity or other circumstance exempts from it, it is in possession and must be obeyed. When there is doubt as to the application of a law to a special case even *epikeia* cannot be invoked to deprive it of possession.[1] In 1643, however, Marchant shows the development of the doctrine, though he still treats it as springing from the theory of possession. When the doubt is as to the existence of a law, liberty is in possession; a law does not obligate unless it is known, or is duly promulgated, and, with respect to one who really doubts, it is held to be insufficiently promulgated, and the doubter is in possession of his liberty. Here is broached the theory destined to have almost illimitable consequences, that the doubt is in itself a proof of the insufficient promulgation of the law, but Marchant hastens to limit it, as though frightened by his own statement. The doubt may be threefold—as to whether the law exists, and in this case you can act if the act is not in itself evil; it may be as to the interpretation of the law and in this case you can

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[1] J. Sanchez Selecta de Sacramentis Disp. XLIII. n. 8.—Henriquez, however (Theol. Moral. Lib. XIV. cap. iii. n. 3, Comment. x.), denies this, because in doubt the condition of the possessor is the better.

Epikeia (ἐπιείκεια, clemency) is another of the devices for eluding obedience to law. As defined by Aquinas (Summæ Sec. Sec. Q. CXX. Art. 2) it is a moderation of the letter of the law, or equity superior to law. St. Antonino (Summa P. I. Tit. iii. cap. 10 § 10) defines it as a benignant interpretation of the law, by the judge in the *forum externum*, by the individual in the *forum internum*. The probabilists turned it fully to account. If there is a probability, according to Viva (Cursus Theol. Moral. P. I. Q. vi. Art. 6, n. 4), that the legislator did not or could not intend the law to apply to the case in hand it need not be obeyed, though it is more probable that he did. Liguori (Theol. Moral. Lib. I. n. 201) following the Salamanca doctors (Cursus Theol. Moral. Tract. XI. cap. 4, n. 45) applies it to cases where the law would be injurious or too onerous; thus a man is not obliged to keep a feast-day if it would cause him to lose a considerable profit. See also Rieffenstuel Theol. Moral. Tract. I. Dist. iii. n. 53.—Roncaglia Univ. Theol. Moral. Tract. I. Q. ii. cap. 1, Q. 1.—Gury Comp. Theol. Moral. I. 113.—Gousset Theol. Moral. I. 177.—Varceno Comp. Theol. Moral. Tract. III. cap. 3; cap. vii. Art. 1.—Marc Institt. Theol. Alphonsian. n. 173-4.

Marc also invokes *epikeia* to prove that a doubtful law imposes no obligation. —Ibid. n. 95.

act according to the view most favorable to yourself; but it may also be as to the application of the law to the special case, and in this you must abstain unless you can dismiss the doubt by a probable reason.[1] As late as 1656 Caramuel alludes to the belief that a law invincibly ignored is not binding, as held by some, among whom he specifies the Jesuit Sforza Pallavicino, thus indicating that as yet it was rather a novelty.[2]

Toward the close of the seventeenth century Arsdekin's definition proves that the scruples of Marchant had been argued away. He who doubts the existence of a law is not bound by it; if certain as to the law and doubtful as to its application to the case he can resolve that he is not obligated; if the doubt is as to the reception of the law it is probable that it is not binding, but if as to its abrogation it is in possession; if the object for which the law was promulgated ceases the law ceases, and some hold that this applies when the object of the law ceases as to a particular case, but the opposite is more common.[3] Thus the reflex principle had established itself that a doubt as to the existence or applicability of a law proves its insufficient promulgation and consequently invalidates it. La Croix is able to assert this as a fundamental truth, and consequently that there is invincible ignorance and that liberty is in possession. He proves that a man cannot sin when he acts on a probable opinion by the enthymeme: He who acts against the law through invincible ignorance of the law does not sin; he who acts on a probable opinion, if he errs, acts against the law through invincible ignorance of the law: therefore he does not sin.[4] When he subsequently remarks that doubts as to the existence or applicability of laws are the commonest of things, we see to what a limitless extent the moralists were able to soothe the pangs of the sinner's conscience.[5] The probabilists also found in it an additional proof of the truth of probabilism, for they pointed out that if there is a law prohibiting the use of the less prob-

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[1] Marchant Tribunal Animar. Tom. I. Tract. v. Tit. 4, Q. 3, Reg. 2–4.

[2] Caramuelis Theol. Fundam. n. 558.

[3] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1, Princip. 5-8.—La Croix Theol. Moral. Lib. VI. n. 280.

[4] La Croix Theol. Moral. Lib. VI. n. 282.

[5] La Croix Theol. Moral. Lib. I. n. 312, 486. "Certum enim est dubia circa leges esse frequentissima, sive leges ejusmodi dentur sive non."

able opinion it is insufficiently promulgated, and therefore not binding.[1] In fact, modern probabilism is based on the principle that the obligation of law depends on its promulgation, and the degree of this is determined by the comparative probabilities of the opposing opinions in a given case.[2]

The supreme importance attached to this reflex principle may be attributed to Liguori. Its capacity to furnish a convenient solution, in the laxer sense, to all doubts had gradually been recognized, and the moralists had brought it constantly into greater prominence. Dr. Amort had, shortly before, piously shifted the responsibility for human casuistry on God by arguing that when the opinion in favor of the law does not appear evidently and notably more probable it is morally certain that there is no obligation, for when God desires that his law should be binding he is obliged to render it evidently and notably more probable[3]—though, as we have just seen from La Croix, there were few cases in which the ingenuity of the casuists could not raise doubts as to the application of the law. Liguori evidently regards it as the one principle by which all probabilism can be defended, and devotes his whole energies to its demonstration. It is applicable not only to human precepts, but to the divine and eternal laws. An uncertain law cannot induce a certain obligation, for human liberty is in possession before the obligation of the law, and when the rigorists denied this because the divine law is eternal, he answers that although all future things were present to God at the beginning, the idea of man must have been conceived by him before the idea of law to govern man, and therefore man must be considered as antecedent to law and originally free from law. It is true that the so-called equiprobabilism which he at one time advocated led him to the definition that when the opinions on both sides are equally balanced there cannot be certainty that the law applies to the case, therefore the law is doubtful and is not binding; still he does not limit the principle to this equal probability, but broadly declares that every action is permissible when we are not convinced or mor-

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[1] La Croix Theol. Moral. Lib. VI. n. 274.—Roncaglia Univ. Mor. Theol. Tract. I. Q. 1, cap. 2, Q. 3.

[2] Bonal Institt. Moral. Tom. V. *De Act. Human.* n. 139–40.

[3] Quoted approvingly by Liguori, *De Usu moderato* n. 11. The Jesuit Terrill had already furnished the germ of this pious argument (Concina Theol. Christ. contracta Lib. II. Diss. ii. cap. 5, n. 11).

ally certain that it is against the faith or morals.[1] Even though the law may comprehend the case in question it does not obligate at the time, because while the doubt exists it is not a law that obligates; nor do we thus act against the Divine Will because, not knowing what is the Divine Will, we are not bound to conform ourselves to it.[2] Thus the burden of proof is thrown always on the law, and a man has only to be uncertain as to the morality of the act in order to be justified in committing it. It is admitted that only the ablest theologians are able to pronounce on intrinsic probability; with the multitude extrinsic probability must suffice, and as there is scarce a question on which opinions are not divided, it follows that there is scarce a law which is sufficiently promulgated to be binding in such questions. The result is a system in which the virtuous may preserve their virtue through their innate conscientiousness, while the vicious are provided with the means to render the conscience "certain" about almost anything which they desire to do.

This principle of the insufficient promulgation of the law is one to which Liguori returns with perpetual insistance and wearisome iteration; it is his sheet-anchor, the foundation on which his whole structure of practical morals is built. One of his latest works, an exposition and defence of his system, is almost wholly devoted to it, and he rightfully claims it as his own, for he carried it to a further

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[1] S. Alph. de Ligorio De Usu moderato n. 8-40.—"Quælibet igitur actio nobis permissa est, modo convicti aut moraliter certi non simus illam contra fidem aut bonos mores esse"—(Ib. n. 12). In cases of doubt a man can use a probable opinion "formans sibi conscientiam moraliter certam de honestate suæ actionis, quia tunc cum dubia sit lex et non satis manifeste proposita hujusmodi lex vel non est lex vel saltem non est lex quæ obligat."—Theol. Moral. I. 53.

There is no equiprobabilism in the passage "Onde quando se dubita se la legge comprenda o no quel caso, allora per quel caso ben resta dubbia la legge, e per tanto non obbliga. . . . E quindi concludesi che in tutti i casi dove la legge è incerta e non può indurre obbligo certo, ivi resta certamente salva à noi la libertà; e per tanto allora siam certi dell' onestà delle nostre azioni."—Istruzione pratica cap. 1, n. 38. Thus uncertainty becomes the basis and source of certainty.

[2] Istruzione *loc. cit.* As Gury puts it (Comp. Theol. Moral. I. 78), probabilism can be employed not only in matters of positive law, but in those of natural and divine law, because if there is a true and solid probability against it *non constat* the existence of the law, and thence arises invincible ignorance concerning the law.

and more dangerous development than any of his predecessors had dared to do. He declares that for thirty years he had read innumerable authors on both sides, and had sought for light from God to indicate the system which he should hold to avoid teaching error; finally, he had determined on this, which he claims to be based on Aquinas; if he errs he errs with that holy doctor.[1] I shall have to consider presently the so-called equiprobabilism with which Liguori deceived himself, and need here only add that his immense and controlling authority has caused the universal adoption of his views in modern teaching.[2] The practical result is seen in the dictum of Archbishop Kenrick that there is no need for a man to determine the honesty of an act; it suffices if it does not clearly appear to be prohibited, and in the remark of Bonal that the decision reached through a reflex principle has nothing to do with its objective morality.[3]

This is the reflex probabilism which, since the time of Liguori, has supplanted the old direct probabilism. It wrought a fundamental change in both theory and practice, and while speculatively more rigid it widened greatly the possibility of laxism. It demanded that a man should act only on certainty, and rejected, what was formerly deemed sufficient, the "probable conscience," or at most only retained the time-honored name to explain that it meant a conscience formed on certain reflex principles which proved the lawfulness of an act.[4] The old rule *qui probabiliter agit prudenter agit* was declared to be false as a direct principle unless it is conceived as based on reflex principles, and was even pronounced to have been condemned by Innocent XI. in his third proposition.[5] But the

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[1] Dichiarazione del Sistema che tiene il Autore, n. 49 See n. 26 sqq. for his efforts to prove that a passage of Aquinas means the opposite of what it says —"Promulgatio legis naturæ est ex hoc ipso quod Deus eam mentibus hominum inseruit naturaliter cognoscendam" (Summæ I. II. Q. xc. Art. 4 ad 1).

[2] Gousset Theol. Moral. I. 84, 89, 98.—Kenrick Theol. Moral. Tract. II. n. 16.—Scavini Theol. Moral. Tract. I. Disp. ii. cap. 3, Art. 2, § 3 A. Q. 2.—Varceno Comp. Theol. Moral. Tract. II. cap. iv. Art. 3.

[3] Kenrick Theol. Moral. Tract. II. n. 32.—Bonal Institt. Theol. T. V. *De Act. Human.* n. 122.

[4] Roncaglia Univ. Moral. Theol. Tract. I. Q. 1, cap. 2, Q. 2.—Voit Theol. Moral. I. 92-3.—S. Alph. de Ligorio Theol. Moral. Lib. I. n. 40.—Bonal Institt. Theol. Moral. T. V. *De Act. Human.* n. 118, 119.

[5] S. Alph. de Ligorio De Usu moderato n. 61; Ejusd. Apologia della Teologia

certain conscience thus required was not, as of old, founded on the certainty of an opinion being probable; it was even more easily attained. Towards the close of the seventeenth century Arsdekin had already shown us that the process was recognized that a man, acting on a true probability or in doubt after due examination, could, by the employment of a reflex principle, acquire the practical certainty that he did not commit sin; he need not be certain that the act was lawful, but could feel secure that for him it was so.[1] In the eyes of the moralists it is not sin that is to be avoided, but only the responsibility for it. Moreover, in the controversy with the probabiliorists the development of the reflex principles gave the probabilists a decided technical advantage, for it enabled them to argue that when there are two opinions the more probable one does not afford certainty, while by the application of the reflex principles certainty is acquired, irrespective of the guilt or innocence of the act; from direct principles a man may judge that an act is illicit, but by reflex principles he acquires certainty of its lawfulness; it is true that the actor exposes himself to the danger of material sin, but escapes the responsibility of mortal sin.[2] Nor does it require a formal application of the reflex principle; a virtual application suffices.[3]

It was Liguori, thus, who made the reflex principles the basis of the system of morals, and his authority has maintained them in that position to the present time. His standing in the Church is so pre-eminent, and he has exercised so decisive an influence on its ethical teachings in modern times, that it is necessary to give a rapid glance at his career as a teacher. He was a man of deep and austere piety; his maceration of the flesh was so severe that at times those around him found it difficult to endure the neighborhood of his person. As bishop of S. Agata de' Goti he performed his episcopal duties with vigor and success; as spiritual director he was eagerly

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Morale n. 13.—Varceno *ubi sup.*—Scavini *ubi sup.*—Gury Comp. Theol. Moral. I. 79.

[1] Arsdekin Theol. Tripart. P. III. Tract. 1, Cap. 1, Princip. 4, 19.—Voit Theol. Moral. I. 34–5.—Scavini Theol. Moral. Univ. Tract. I. Disp. 1, Cap. 3, Art. 2, § 2, Q. 5.

[2] La Croix Theol. Moral. Lib. I. n. 344–53.—Scavini Theol. Moral. Univ. Tract. I. Disp. ii. Cap. 3, Art. 2, § 2, Q. 2, 8.

[3] Voit Theol. Moral. I. 85.

sought, and he founded the Order of Redemptorists, of which he remained the head. His industry was untiring, and amid his multifarious duties he found time for the composition of numerous books which attest the wide range of his investigations and the energy of his authorship. He tells us that his first theological studies were under a probabiliorist teacher, to whose views he naturally adhered, until the consideration of the reflex principle as to doubtful law induced him to change them. He then became a probabilist for a time. It may have been merely a coincidence, but in 1762, about the time of the popular outcry at the laxity of Jesuit morals and the expulsion of the Society from France, he declared himself no longer a probabilist and developed a system proposed not long before by Dr. Amort, which he called equiprobabilism—that when opposing opinions are equally balanced either may be followed; when one is notably more probable than the other, it must be chosen. With the progressive decadence of the Jesuits and the opposition aroused in Naples against his books and his Redemptorist Order, he asserted, in 1773, that he repudiated the Jesuit doctrines and declared himself to be a probabiliorist, though he still adhered to the view that when opposing opinions are equally balanced the law is too uncertain to create a certain obligation.[1] To prove the reality of this change of

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[1] S. Alph. de Ligorio de Usu moderato n. 66.—Animadversiones Promotoris fidei n. 23-5 (Concessionis Tituli Doctoris S. Alph. M. de Ligorio, Romæ, 1870).—Liguori, Apologia della Teologia Morale § 1, n. 5.

In his *Dichiarazione del Sistema che tiene l'Autore*, n. 1, issued in 1773, he apologizes for incorporating Busenbaum's *Medulla* in his Moral Theology; if he did so it was not to indorse Busenbaum's opinions, but only to take advantage of his excellent arrangement—"Non l'ho premesso per seguitar la sua dottrina o sia quella de' gesuiti"—and he expressly condemns probabilism. He even repudiates equiprobabilism—"Sicchè io non sono nè probabilista nè equiprobabilista in modo ch' io dica essere per sè licito il seguire l'opinione equiprobabile" (Ib. n. 3, 4). He evidently succeeded in deceiving himself by falling behind the reflex principle of doubtful law.

Marc is manifestly in error (Institt. Mor. Alphons. n. 90) in asserting that after the development of equiprobabilism in the edition of 1762, Liguori threw away all hesitation and firmly adhered to it. Practically he did so, for his solutions of cases are virtually the same as those of the more moderate probabilists, and he did not change them, but nominally he abandoned his theory. For the dates of his successive works and the various positions assumed in them by him, see Vittozzi, *S. Alfonso de Liguori e il Probabilismo Comune*, Napoli, 1874, pp. 83 sqq.

views he points out that in the earlier editions of his Moral Theology he admitted as probable many opinions of Busenbaum and others not sufficiently sound, lists of which will be found in the later revisions, so that many consider him an advocate of rigor rather than of benignity.[1] An examination of these lists, however, of which one containing 99 changes is prefixed to the edition of 1762, and another of 23 to that of 1767, will show that they rather prove his vacillation of judgment than his increasing rigor; only a portion have any reference to morals, and these are mostly of a trivial character involving no principles, and though most of them are in the direction of rigor some are in that of laxity.[2] Liguori's apologies and declarations towards the end of his career are all futile. He was a probabilist, as we shall see, under the disguise of equiprobabilism; he never was a probabiliorist, for the probabiliorists consistently repudiated the ingenious device of the efficacy of the reflex principles.[3]

The enormous influence which Liguori has exercised and the authority attributed to his works, unequalled since the days of Aquinas, are not easily explicable, if we consider the man himself and the intrinsic character of his labors. Probably it may be ascribed to the interaction of various causes. The saintliness of his life, at a time when the ultramontane Church was steeped in worldliness, undoubtedly had something to do with it. His vigorous defence of papal infallibility and of the extreme claims of the Holy See, at a period when the influence of the papacy had sunk to the

[1] Apologia della Teologia Morale § II. n. 49.

[2] A striking illustration of Liguori's instability of opinion is seen in his treatment of the question whether an incumbent who spends in profane uses the superfluous revenue of his benefice is bound to make restitution. At first he decided this in the negative; then in revising the book he altered this to the affirmative, and again in another revision he pronounces the negative equally probable and safely to be followed in practice (Theol. Moral. Ed. 1767, Q. 24, p. v.; Q. xvi. p. viii.).

[3] Döllinger u. Reusch, II. 91.—Habert Theol. Moral. *De Conscientia* cap. iv. Q. 1.—Gerdil Theol. Moral. Lib. I. Q. ii. cap. 4, 5; Q. iii. c. 6.—Manzo, Epit. Theol. Moral. P. I. *De Conscientia* n. 31.—Alasia Theol. Moral. *De Actionibus Humanis* Diss. II. cap. vi. Q. 1-7.

Martinet (Theol. Moral. Lib. I. Art. xii.) admits the reflex principles as a means of confirming moral certainty, but argues that it can be obtained without them from a more probable opinion. His definition of doubtful law, however, is vastly more rigid than that of Liguori.

lowest ebb and the spirit of revolt was rife almost everywhere, contributed largely to it, as also did his ardent devotion to the Virgin and his support of the Immaculate Conception. He appeared in an age, moreover, which was barren of great theologians, and his stature loomed large in the absence of giants with which to compare it. More than all, however, was it owing to the plausible excuse which his so-called equiprobabilism afforded for the maintenance and justification of the system of probabilism which had become so discredited in the downfall of the Society of Jesus, and which yet was a necessity to the Church, if the system of the confessional, which gave it control over the human conscience, was to be preserved and to retain the veneration of the faithful. When almost every question was disputed and great names were ranged on either side, when the intricacies of casuistic dialectics had thrown doubt upon almost every detail of morals, it was an evident impossibility that the confessor could examine the countless cases daily submitted to him and could pronounce off-hand what was the more probable or the truer solution. Some easier formula, of readier application, was a necessity to satisfy the conscience of the sinner and avoid rendering confession "odious." The Church had undertaken a task beyond human capacity to discharge, and it needed some method by which appearances could be saved, and the confessor would not be obliged to hold his penitents in suspense with deferred absolution while he consulted his books or sought instruction from experts. From the beginning of the development of probabilism this had been urged as one of the strongest practical reasons in its favor—the impossibility of the confessor discharging his duties on any other principle, and although this was a practical admission that the confessional was a failure and a delusion, it has been re-echoed to the present day. As early as 1600, Carbone and, in 1607, Father Sayre plead for the new doctrines on the score of the difficulty of any other course, in a manner to show how men, wearied with the impossible duty of finding their way through the labyrinth of discordant opinions hailed this as a refuge from thought and anxiety and responsibility. Tomás Sanchez followed in the same strain, and it has been reiterated ever since, the argument growing stronger as the moralists succeeded in enveloping their subject with ever-thickening darkness. Gury includes in his defence of probabilism an eloquent passage describing the sins to which probabiliorism must lead in the confessional, and concluding

with the assertion that under it no one could undertake to administer the sacrament unless so versed in moral theology as to be able to distinguish between the more or less probable opinions, while there are exceedingly few (*paucissimi*) able to do this. Even confessors who profess probabiliorism complain that they cannot apply it rigorously in administering the sacrament of penitence, and thus they hold one thing speculatively and another practically. The faithful would also be exposed to too much difficulty, for the obligation would be imposed on them in doubtful matters to determine which opinion is the more probable, and there is mostly a moral impossibility of distinguishing between the more or less probable. This is very difficult, even to the learned.[1] Voit even draws from the impossibility of any other course the conclusion that God intends no other course to be followed,[2] and Habert, in arguing against the system, virtually admits its necessity, for the only remedy he can devise is to choose a wise confessor and follow blindly his counsels without troubling oneself further, while he deplores the diabolical fury that leads the people to avoid learned and holy men and seek those who permit them to do as they please.[3] Thus the net result of the labors of the moralists of the last three centuries would seem to be the impossibility of distinguishing between right and wrong, and we can readily believe that the experience is not singular of Roncaglia, who tells us that he was trained as a probabiliorist and continued to be one till practice as a confessor showed him that it was an insupportable labor to be constantly weighing the probabilities of opinions, and he found that it satisfied his conscience to follow any opinion which he thought had a reasonable basis.[4] Roncaglia was a learned theologian; for

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[1] Lud. Carbonis Summ. Summar. Casuum Conscient. T. I. P. I. Lib. 5, c. 14.—Sayri Clavis Regia Sacerd. Lib. I. cap. vi. n. 4.—Th. Sanchez Lib. I. cap. ix. n. 14, 18.—Layman Theol. Moral. Lib. I. Tract. 1, cap. 5, § 2, n. 7.—Döllinger u. Reusch, II. 154.—Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 2 § 4.—La Croix Theol. Moral. Lib. I. n. 283, 293.—Herzig Man. Confessar. P. I. n. 173.—Gury Compend. Theol. Moral. I. 67-8.

Yet Marc assures us (Institt. Moral. Alphons. n. 106) that equiprobabilism renders this an easy matter. You have only to determine whether law or liberty is in possession, and decide in favor of the possessor unless the other side is evidently more probable.

[2] Voit Theol. Moral. I. 78.

[3] Habert Praxis Sacr. Pœnit. Tract. I. cap. iii. n. 2; cap. vii. n. 1.

[4] Roncaglia Univ. Mor. Theol. Tract. I. cap. Q. 1, cap. 2, Q. 4.

the ordinary confessor the worldly wisdom of La Croix must suffice, who argues that no high degree of learning is requisite for his duties; it is enough for him to have read with diligence a *summa* of cases; much learning may *per accidens* be rather harmful than helpful, for an endeavor to apply it often involves confessor and penitent in difficulties and scruples; it is better to conform to the usage of the Church.[1]

Thus it would seem that to the great body of confessors probabilism is a practical necessity, and Liguori had the supreme merit of championing it under the less offensive name of equiprobabilism at a time when it was too generally discredited to find direct defenders. He bore the ark through the desert, and he had his reward. His saintly merits, as manifested in the austerity of his life, produced the requisite number of miracles, and when, in the beatification proceedings, the accusation brought against him of relaxed teaching was considered, a special inquisition on the subject, founded on a detailed examination of his works, led the declaration, in a brief of Pius VII., May 7, 1807, that a double investigation of the most minute character had removed every doubt and difficulty, which renders it unnecessary for us to do more than refer to the warm commendation bestowed on him in the bull of canonization in 1839 and the papal decree of January 10, 1840.[2] A more practical indorsement, such as has never been granted to any other modern theologian, was that given by the papal Penitentiary, in 1831, in answer to the question of the Archbishop of Besançon, who asked whether all the opinions in Liguori's Moral Theology could be safely followed, and whether confessors were justified in simply consulting the work and acting on his decisions without paying attention to the reasoning on which they are based, to which the reply was in the affirmative.[3] Still more emphatic was the reply of the Penitentiary to a person appointed to a professorship in which he proposed to teach the doctrines of Liguori, although he had been trained in a university where probabiliorism was taught, and had sworn in his graduation-oath always to defend it; he now asks whether he can accept the position, and whether dispensation from his oath is requisite, to the first of which questions the answer was affirmative, and to the second negative—from which

[1] La Croix Theol. Moral. Lib. VI. P. ii. n. 1787–88.

[2] Vindiciæ Alphonsianæ pp. xxi. xxvii.

[3] Responsio ad Animadversiones n. 12 (Concessionis Tituli Doctoris).

Liguori's disciples argue that all his opinions are more probable and safe.[1] When, in 1847, Scavini dedicated to Pius IX. the third edition of his theology based on Liguori, the pope replied in a letter warmly congratulating him that his chief object was to propagate as widely as possible the doctrines of Liguori and imbue with them the minds of students.[2] Pius further showed his estimate of Liguori in elevating him to the rare honor of a Doctor of the Church in 1871. In the course of this ceremony the highest dignitaries in all lands exhausted the vocabulary of praise in testifying to his exalted authority, and in the decrees announcing the result Pius especially praises him for having exterminated the pest of Jansenism which had been evoked from hell for the destruction of the harvest of the Lord, and his works are decreed to be used in all seminaries and schools, disputations and sermons.[3] Leo XIII. is no less ardent in his admiration than his predecessor. When, in 1879, the Redemptorist Fathers Dujardin and Jacques issued a French translation of Liguori's works, he gave them his blessing in an effusive epistle, in which he alluded to the Moral Theology as most celebrated throughout the world, and as affording a safe rule which all confessors should follow.[4] When, moreover, it is the custom of the papal

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[1] Ibid. n. 13.—Vindiciæ Alphonsianæ, p. xix.

[2] Tibi vehementer gratulor quod in hiscis theologicis institutionibus conficiendis . . . nihil antiquius habueris quam salutares sanctissimi ac doctissimi viri Alphonsi M. de Ligorio doctrinas magis magisque propagare, iisque ecclesiasticæ præsertim juventuti animos imbuere.—Scavini Theol. Moral. Univ. Procem.

[3] Pii PP. IX. Decr. *Inter eos*, 23 Mart. 1871; Litt. Apostol. *Qui Ecclesiæ*, 7 Julii 1871 (Pii IX. Acta, T. V. pp. 296, 336).

Possibly some of this effusiveness may be explained by the sentence recounting his merits—"Quid quod ea quæ tum de Immaculata Sanctæ Dei Genetricis Conceptione tum de Romani Pontificis ex cathedra docentis Infallibilitate . . . a Nobis sancita sunt, in Alphonsi operibus reperiuntur et nitidissime exposita et validissimis argumentis demonstrata." And the *Civiltà Cattolica* says, "Non vi ha niuno il quale . . . celebri con tante lodi le glorie della Madre di Dio e quella sopratutto della sua Immacolata origine, o difenda con pari costanza il primato dei Romani Pontifici e la infallibilità delli loro definizioni."—Vindiciæ Alphonsianæ, p. xxxiv.

[4] "Et ne quid dicamus de Morali Theologia ubique terrarum celebratissima, tutamque plane præbente normam quam conscientiæ moderatores sequantur." —Marc Institt. Moral. Alphons. p. xi. See also Epist. *Quod proxime*, 21 Junii 1893 (Leonis PP. XIII. Acta, T. XIII. p. 184).

Penitentiary to answer inquirers by referring them to the works of Liguori, his disciples are perhaps not without justification in asserting that anyone would be guilty of rashness and of gross irreverence to the Holy See who should pronounce any of Liguori's opinions to be false or improbable, and this position gives rise to a new reflex principle, for if you doubt any of his opinions you can render your conscience certain by applying the reflex principle that so great a Doctor is a much safer guide than your own intellect.[1] It is a natural result from this strong papal impulsion that Liguori's views predominate throughout the Church; modern text-books are based upon his works, priests are trained in his doctrines, and in them are to be sought the principles and practice prevailing throughout the Roman obedience. His disciples claim for him that he was the first to lay a solid foundation for morals,[2] unconscious of the slur thus cast on an infallible Church acting under the direct inspiration of the Holy Ghost, that it had waited seventeen centuries for him to perform this imperative duty.[3]

It therefore becomes necessary to see what difference if any exists between the so-called equiprobabilism of Liguori and the probabilism of his predecessors. Liguori taught that when opposing probabilities are unequal the more probable should be followed, when equal or

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[1] Vindiciæ Alphonsianæ, pp. xxxix., xli., xliv.—Cardinal Newman may be charitably assumed to have written in ignorance when, in his controversy with the Rev. Charles Kingsley, he found it expedient to discredit the authority of St. Alphonso (Apologia pro Vita sua, Ed. 1890, p. 352).

Yet, great as is the assistance which such an authority as Liguori affords to the puzzled confessor, it requires special training to weigh correctly the rather loose way in which he expresses his results. See the eight rules for interpreting him given by Marc, Institt. Moral. Alphons. n. 108.

[2] Marc Institt. Moral. Alphons. n. 105.—In the proceedings for the Doctorate he is asserted to have originated equiprobabilism, which is a mean between probabilism and probabiliorism.—Responsio ad animadversiones n. 228 (Concessionis Tituli Doctoris).

[3] The question of the relations of infallibility to the changes in doctrine and morals is imported into the discussion by a defender of probabilism, who points out that if it is false the Church's claim to infallibility is destroyed, seeing that it had been taught everywhere and used in the guidance of souls without condemnation for a century—La Scimia del Montalto, da Francesco de Bonis, p. 73 (Gratz, 1698). What then are we to say to the infallibility which permitted the contrary doctrine to be universally taught and acted on prior to 1577?

nearly equal either may be chosen, though there must be a moral certainty of the honesty of the act,[1] a certainty presumably acquired by the application of a reflex principle. This relieved the system of much of the odium that had attached to it, but the difference is more nominal than real. What to one moralist is more probable, to another is less probable, and the infinite questions which are disputed show how generally this is the case; the distinctions are too tenuous to be grasped, and it is generally admitted that it is morally impossible for the common mind to weigh comparative probabilities. Even Liguori himself, when arguing against his adversaries, triumphantly asks who has a balance so delicate that he can weigh the exact amount of probability lacking to an opinion in favor of the law opposed to a very probable one in favor of liberty that reduces it from a probable opinion to one that can be disregarded, and he does not seem to recognize how the argument can be retorted on him when he defines that when the probability in favor of law is slight or doubtful the opinion favoring liberty can be followed, but not when the former is clear and certain, for then it must be held to be much more probable.[2] The mind loses itself in grasping these impalpable distinctions, impossible of application in practice. Besides, the prominence accorded to the reflex principles as the basis of the system rendered the question of comparative probabilities much less important. It was easy to say that the principle of doubtful law should only be applied when the opposing probabilities are equal, but even Liguori, as we have seen (p. 362), neglects to enforce this limitation—when a man is in doubt, he is to make his conscience certain by the application of a reflex principle, and the mere fact that there are two probable opinions shows that the law is insufficiently promulgated.[3] Even Marc, who strenuously labors to present Liguori's views in their most rigorous aspect, admits that in essentials equiprobabilism is in accordance with moderate probabilism, but with the advantage that it requires the actor to examine both sides.[4] The

[1] S. Alph. de Ligorio de Usu moderato § 3. This essay, in which he developed his theory of equiprobabilism, first appeared in 1762.

[2] De Usu moderato n. 64.—Apologia della Teologia Morale § II. n. 48.

[3] Apologia § II. n. 34.

[4] Institt. Moral. Alphons. n. 86, 105.—For an instructive example of juggling with definitions see Marc's argument to establish a distinction between equi-

distinction which Liguori claimed, that he required certainty while probabilism is content with probability, is illusory, for if in the former certainty is obtained by reflex principles, in the latter it was held to be gained by the certainty that the opinion is probable—and one such factitious certainty is well worth the other.[1]

Disputes over differences such as these are so futile that one feels somewhat ashamed of discussing them. Such refinements of the closet are impracticable in the confessional, where, as Gury states (*supra* p. 367) it is exceedingly difficult to decide even which side is the more probable. In either system the practical result depends on the spirit in which it is interpreted and administered, and Liguori's sympathies were wholly on the side of probabilism and benignity, though towards the end he posed as an enemy of laxity and boasted that his rigorism was a subject of complaint.[2] Though he nominally changed his speculative opinions he did not change the solutions of questions, except to the trifling extent noted above. In the 1767 edition of his Theology he classes a moderate probabiliorist like Thyrsus Gonzalez with Pascal and Concina as an enemy of the casuists, whom he defends: Moses was the first casuist, and the Apostles were casuists: the fact that the Popes have condemned some of the propositions of the casuists is no proof against them, for the saints themselves have erred sometimes. This is followed by a long and ardent defence of probabilism with the most vigorous vituperation of its opponents and a labored defence of Viva.[3] It would be easy to present a list of his lax opinions, but a single instance will suffice to indicate to what his doctrines lead. Restricting the number of children in marriage has always been held a mortal sin. Even

probabilism and probabilism and his misleading citations from Viva, Roncaglia and Laymann (Ib. n. 100-3).

[1] The rigorists argued, reasonably enough, that when two opposite opinions are equally probable certainty is unattainable, and the actor who follows the bent of his inclination in making a selection must act with a doubtful conscience, which all agree is inadmissible.—Shguanin Anatomia Probabilismi Q. IV § 1, n. 1, 2.

[2] Apologia della Teologia Morale § II. n. 46, 49.—Dichiarazione del Sistema, n. 1.

[3] Theol. Moral. Dissert. Prolegom. P. III. cap. 1, 2, 7, 8, 9, 10.—See also the manner in which his disciple Scavini (Theol. Moral. Univ. Tract. I. Adnot. J) boasts of the spread of Medina's doctrine and his suppression of its repeated condemnations by the religious Orders.

the laxity of Diana admits this, but when, in 1842, the Bishop of Le Mans reported to the papal Penitentiary that the practice was almost universal and asked whether confessors were to be approved who discreetly avoided all reference to it in the confessional, the Penitentiary found in Liguori warrant for tacit approbation, and his good Redemptorist disciples parade this as a matter of boasting.[1]

It is small cause for wonder, under such circumstances, that the question is warmly disputed whether there is really any difference between Liguori's equiprobabilism and the old probabilism. The Jesuits, delighted to find that the laxity, which contributed to their downfall in the eighteenth century, is recognized and adopted by the Church in the nineteenth, assert that Liguori was a probabilist. The Redemptorists, jealous of the fame of their founder as the discoverer of the new and triumphant system of morals, assert that his equiprobabilism is distinct and is an infallible guide in the tangled paths of moral science; but, as we have seen, his latest expounder, the Redemptorist Father Marc, admits that there is virtually no distinction between it and moderate probabilism.[2]

Before leaving this branch of the subject I may mention a somewhat modified system proposed by Stapf in a theology written by order of an Austrian imperial commission and ordered to be used as a text-book by a decree of 1830. The author was evidently a very cautious and conservative probabilist who rarely quotes Liguori. He tells us that after proper investigation we should embrace the side that is supported by the strongest reasons. This he says avoids the errors of both the laxists and rigorists, while it is not strictly probabiliorism, for in many cases one side may seem more probable, and yet there may be stronger reasons for adopting the other—as when a new-born child is more probably dead and yet should be conditionally baptized. But when Stapf comes to apply his system to details he is lost. Doubtful cases must be settled somehow, and he has nothing better to offer than the reflex principles, while to avoid laxity he introduces a *consilium de bono meliori*, for just men deem it better to

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[1] Summa Diana s. v. *Copula Conjugalis* n. 2.—Vindiciæ Alphonsianæ, p. xvii.

[2] Ballerini not. in Gury Comp. Theol. Moral. I. 53.—Bonal Institt. Theol. Tom. v. *De Act. Human.* n. 131.—Vindiciæ Alphonsianæ *ubi sup.* This latter work was written to vindicate Liguori from the assertions of Ballerini, and the Jesuits retorted with another entitled *Vindiciæ Ballerinianæ.*

submit to inconvenience than inculpably to transgress some law that perhaps exists[1]—admirable advice, but showing the impossibility of framing strict rules to satisfy righteousness in a theology interpenetrated with probabilistic theories, where the only rules which can be devised are liable to lead men astray and have to be supplemented with counsels which are only binding on good men who do not need them.

Antonio Rosmini proposed a modification of the Ligorian practice, admitting its application in cases of doubt arising under positive law, human and divine, but not in doubts under the natural law, his argument being that offences against the former are illicit only through the force of the law itself, and therefore that the rule of doubtful law being not obligatory obtains, while infractions of the natural law are intrinsically evil in themselves.[2]

A more recent theory is one advocated by the Dominican Potton and some others, which is termed *De Ratione sufficiente* or *De majori Commodo et Incommodo.* This is based on the principle that it is lawful to follow the less safe part, favoring liberty, whenever the good to be obtained by the transgression of an uncertain law equals or exceeds the evil caused by the material violation of the law.[3] This system does not appear to be making headway, and its only importance is as an indication of the direction which future developments of probabilism are likely to take. The gradual metamorphosis of moral theology since 1577 shows that it is a progressive science; it is still in an unsettled condition, and we can only conjecture from such movements as this what it is likely to become. Some adventurous theologian may any day, like Bartolomé de Medina, propound a novelty which will lead to the most unexpected results. At present it may be assumed that the so-called equiprobabilism of Liguori is the prevailing rule of practice, though Bonal tells us that naked probabilism is common enough.[4] Probabiliorism or Jansenism is under the ban and presumably has almost disappeared.

The various shades of probabilism are founded on a conception of sin and the relations of the sinner with his God wholly different

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[1] Stapf Epit. Theol. Moral. §§ 62–4.

[2] Martinet, Theol. Moralis Lib. I. Art. xiii.

[3] Bonal Institt. Theol. T. V. *De Act. Human.* n. 142.

[4] Ibid. n. 130.

from that which prevailed prior to the sixteenth century. This is one of the most important features of modern moral theology, and apart from its controlling influence on practical morality merits consideration as a very curious development of ethics. It is the distinction between material and formal sin, of which only the latter is imputed as sin,[1] whereby man is taught how to gratify his desires and escape responsibility for transgressing the law. According to the prevailing theories sin is matter wholly of intention and belief. There is no formal sin in following the dictates of an erroneous conscience, it consists only in disobeying the conscience, whether that be true or erroneous. Incidental indications of this have occurred frequently above, and a somewhat more detailed examination of its development and consequences is necessary.

This is a modern innovation. We have seen (*supra*, pp. 291, 297) how little value Alexander Hales, William of Paris and Bonaventura set on opinion as a guide to conduct, while Aquinas asserts without reserve that if the conscience is erroneous a man sins whether he follows it or disobeys it—in one case he violates the law of God, in the other he violates his conscience.[2] A breach was insensibly made in this by the growing prevalence of the rule that the confessor must accept the opinion of the penitent, which inferred that though the penitent's opinion might be erroneous, and thus that he had committed sin, still, if so, it was excused by his error and required no absolution or satisfaction. The great mass of the faithful, moreover, scattered through country districts, had no guides to appeal to save their parish priests, whose decisions and opinions, whether true or erroneous, they had no choice but to follow, and thus of necessity it had to be conceded that if in so doing they were led into error they were free from responsibility.[3] Closely connected with this was the development of the doctrine of invincible ignorance, which

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[1] Peccat qui se exponit periculo peccandi formaliter, concedo; peccat qui se exponit periculo peccandi materialiter tantum, nego.—Marc, Institt. Moral. Alphons. n. 94.

[2] Si alicui dictat conscientia ut faciat illud quod est contra legem Dei, si non faciat peccat, et similiter si faciat peccat —S. Th. Aquinat. Quodl. III. Art. xxvii. In modern theology the degree to which an erroneous conscience renders mortal that which is not mortal is a very intricate subject. Sometimes it does and sometimes not.—Voit Theol. Moral. I. 16–19.

[3] Voit Theol. Moral. I. 96.

also suggested sin not imputable to the sinner, and thus there came to be recognized the two kinds of sin, known as material and formal, the former of which is guiltless in the eyes of God. Thus sin becomes merely a matter of opinion;[1] the elder schoolmen held that the most innocent act committed in the belief that it is a mortal sin is a mortal sin of the grade believed, and the moderns carry it out to the converse that a mortal sin is as innocent as it is believed to be. That belief makes sin or innocence is inferred in the universal assertion that he who follows the advice of his confessor is safe, and in the similarly universal precept that an invincibly erroneous conscience is to be obeyed; it is a sin not to follow it, whether it leads to good or evil.[2]

There is, of course, truth underlying these speculations. Unfor-

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[1] Caramuel Theol. Fundam. n. 465, 1110.—Reiffenstuel Theol. Moral. Tract. I. Dist. ii. n. 49.—Roncaglia Univ. Mor. Theol. Tract. I. Q. 1, cap. 1, Q. 4.—Herzig Man. Confessar. P. I. n. 75.—Bonal Institt. Theol. T. V. *De Act. Human.* n. 102.

How this grew out of the rule that the confessor must accept the probable opinion of the penitent is indicated by an extract from Bartolomé de Medina in Francolini's *De Disciplina Pœnitentiæ*, Lib. III. cap. vii. § 3, n. 5.

[2] Azpilcuetæ Man. Confessar. Prælud. IX. n. 9.—Carbonis Summæ Summar. Cas. Conscient. Tom. I. P. I. Lib. 1, cap. 12, 13.—Th. Sanchez in Præcepta Decal. Lib. I. cap. xii. n. 2, 5.—Marchant Trib. Animar. Tom. I. Tract. V. Tit. iii. Q. 2, 3, 6.—Reiffenstuel Theol. Moral. Tract. I. Dist. iii. n. 11–22.—Roncaglia Univ. Mor. Theol. Tract. I. Q. 1, cap. 1, Q. 3, 4.—Manzo Epit. Theol. Moral. P. I. *De Conscientia* n. 12–15.—Gousset, Théol. Morale I. 61, 65, 66.—S. Alph. de Ligorio Theol. Moral. Lib. I. n. 3, 5, 6.—Marc Institt. Mor. Alphons. n. 21.

A story told by Thomas of Cantimpré (De Bono univers Lib. I cap. 19) shows that in the thirteenth century it was not held that an erroneous opinion justifies sin. In 1235, Master Philip, chancellor of the University of Paris, held a solemn disputation with Master Arnaud and other doctors, in which he maintained the legality of pluralities. Not long after, on his death-bed, his friend, William Bishop of Paris, earnestly advised him to resign all his benefices but one, in order to save his soul, but with a schoolman's disputatious ardor he refused, saying that he wished to ascertain whether it is damnable to hold pluralities, and he soon after death appeared to the bishop and announced his perdition. La Croix however (Theol. Moral. Lib. I. n. 354) argues that his expression shows that he was in doubt; had he felt certain he would only have sinned materially, and would have been saved. Thyrsus Gonzalez, on the other hand (Fund. Theol. Moral. Diss. IV. n. 45–6) points out that Philip's opinion was probable, for Aquinas states that both theologians and jurists were divided on the subject. Unfortunately for Philip, probabilism had not as yet been discovered.

tunately the theologians, in their zeal for the salvation of souls and for avoiding all that might render the confessional odious, seized upon this doctrine of innocuous material sin and applied it in practice, not to advance morality, but to humor the sinner and to allure him to heaven with the least possible sacrifice of the joys of earth. As sin is merely a matter of opinion, all opinions are equally safe, and, in fact, they assert that the laxer an opinion is the safer it is, for there is less risk of its transgression; the less the demands made upon the conscience the less danger of disobedience—and disobedience is the one sin. The confessional thus is rendered, not an instrumentality to make men better and stronger, but to flatter their baser instincts and teach them how to transgress the laws of God without paying the penalty, for if God cannot be obeyed without too great a sacrifice he can at least be cheated. There is a tendency to this already manifested by Prierias, and with the development of probabilistic casuistry it has become generally adopted.[1] Archbishop Kenrick says that the ordinary man must rely upon his confessor, and the confessor should select the opinion best adapted to preserve him from formal sin.[2] Thus morality is divided into subjective and objective, and the modern moralists tell us that an act may be objectively immoral and subjectively moral—that is, that in itself it is unlawful, but it becomes lawful for the individual when he has stifled his conscience by the application of a reflex principle.[3] Or, *vice versa*, what is objectively moral may become subjectively immoral, and thus Bonal tells us that a scrupulous conscience exposes to sin, because, as it is apt to regard counsels as precepts, it changes the risk of violating counsels into that of violating precepts.[4] How penitents can be trained to this is shown by Roncaglia, who advises confessors,

[1] Summa Sylvestrina s. v. *Confessio* I. § 3.—Th. Sanchez in Præcepta Decalogi Lib. I. cap. ix. n. 18.—Marchant. Trib. Animar. Tom. I. Tract. V. Tit. 5, Q. 7, Concl. 1-3.—Caramuel Theol. Fundam. n. 441, 1126, Art. iii.—Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 2, § 2.—La Croix Theol. Moral. Lib. I. n. 478; Lib. VI. n. 294-6.—Marc Institt. Moral. Alphons. n. 84, 93.—Arsdekin however (*loc. cit.* § 4) admits that presumably God wishes his laws not to be transgressed either materially or formally, and therefore we should avoid the risk of doing so when we conveniently can.

[2] Kenrick Theol. Moral. Tract. II. n. 30.

[3] Bonal Institt. Theol. T. V. *De Act. Human.* n. 122.—Marc Institt. Moral. Alphons. n. 39.

[4] Bonal Institt. Theol. T. V. *De Act. Human.* n. 114.

when penitents confess that they have acted in doubt, to teach them always to find a reason for their acts, and thus relieve themselves of sin.[1] To what all these theories may lead when logically carried out to the end, and to what they have led in the hands of casuists, we may learn from the complaint of La Quintanye to Oliva, who tells us that the common saying among the Jesuit confessors was that a man sins only as much as he thinks he sins, and that he had heard confessors say that they had female penitents who indulged in unchastity without sin and male ones whose unnameable sexual excesses were similarly innocent.[2] He adds that when he laid these matters before his Provincial the only answer he received was an expression of wonder that he did not take the same view. Evidently Caramuel's warning, that probabilism is not applicable to the case of exposing oneself to a probable occasion of sin, for the reason that in treating of morals we must not lose sight of ethics[3] only serves to accentuate the fact that ethics have little to do with the morals of the confessional.

Perhaps the most deplorable development of this zeal to save sinners, not by exhorting them to virtue, but by enabling them to elude the penalty of their transgressions, is the advice given to confessors not to instruct the penitent whose sins through ignorance are merely material, when they think that his hardness of heart will lead him to continue his evil ways, and his sins will thus through knowledge become changed from material to formal. One would imagine that the obstinacy which would lead to no benefit from instruction would indicate that the penitent lacks the *dispositio congrua* and

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[1] Roncaglia Univ. Mor. Theol. Tract. I. Q. 1, cap. 3, Q. 3. This is not far removed from what Marchant (Trib. Animar. Tom. I. Tract. V. Tit. 5, Q. 3, Concl. 2) calls a wicked and damnable abuse—preparing for confession by studying probable opinions to find a justification for your acts.

[2] Döllinger u. Reusch II. 3, 4.

[3] Caramuel. Theol. Fundam. n. 495–503. The distinction between morals and ethics is effectually shown in Caramuel's formulas of the theory of probabilism (Ibid. n. 519).

I. Est probabile quod hoc non sit peccatum. Ergo est probabile quod hoc sit peccatum.

II. Est probabile quod hoc non sit peccatum. Ergo est certum quod si illud feceris non peccabis.

III. Est probabile quod hoc sit peccatum. Ergo est certum quod si illud feceris non peccabis.

that absolution ought to be withheld, but this might drive him to desperation, and besides would tend to render confession odious. It is thought better on every account to allow him unchecked to transgress the laws of God on the theory which has been elaborated that God overlooks such transgressions. The emphatic warning of Ezekiel (III. 18–21) is forgotten, which commands the prophet to instruct the wicked; if he does so he is free from responsibility—"thou hast delivered thy soul;" if he does not "I will require his blood at thy hand." The priest, who under the Christian dispensation is held to represent Christ himself in the confessional, is trained to a different standard. His first duty is to save the sinner by absolution; leading him to mend his ways is a subordinate function. As Father Segneri explains, the ignorance of a penitent is like the sleep of a sick man which may be twofold: it may be a healthful slumber, dangerous to disturb, or a lethargy which should be broken.[1]

The first trace of this rule is probably to be sought in the perplexities caused by marriages within the prohibited degrees. Not only can this occur ignorantly through the very remote kinship of consanguinity reckoned, which, when genealogies are not carefully preserved and investigated, may at any time involve innocent contracting parties, but the spiritual affinities are still more dangerous, and, in view of possible illicit amours of relatives, no one can absolutely be certain that he is legally married. The interests of wives and children and the peace of society require that such cases should be treated tenderly. As early as Angiolo da Chivasso we are told that if a confessor discovers that such an impediment exists he should keep it silent unless he is sure that warning the parties will be of benefit.[2] Melchor Cano takes the same position, while Azpilcueta goes further, saying that anyone knowing such a case should not divulge it to either of the spouses, for no good can result, as neither of them sin, while if known, one of them might separate from the other.[3] Domingo Soto discusses the matter in a more general sense, showing that it was beginning to attract attention; he puts the case

[1] Segneri Instruct. Confessarii cap. vii

[2] Summa Angelica s. v. *Confessio* IV. § 10.

[3] Cani Relectio de Pœnit. P. v. (Ed. 1550 fol. 101*a*).—Azpilcuetæ Man. Confessar. cap. XXII. n. 83. Elsewhere Azpilcueta says (Comment. de Pœnit. cap. *Si quis autem* n. 71) that when there is ignorance of human laws, and no injury to third parties, the confessor is not bound to enlighten the penitent.

of a woman contracting but not consummating a secret marriage, and then publicly marrying another to whom she bears children. If the confessor explains that she is living in adultery and must separate there will be scandal and the children will be bastardized, wherefore he inclines to discreet silence; the social standing and eminence of the parties may also have to be considered in deciding whether ignorance is invincible, and as such to be respected.[1] Soon after this Bartolomé de Medina suggests that the ignorance of the penitent is not to be disturbed if the confessor anticipates no benefit from the enlightenment; he instances the case of nullity of marriage as an example, and the same view is adopted by van der Beek.[2] Even the rigorists admitted it in the case of incestuous marriages when there is danger that revelation may lead to divorce and the injury of children,[3] and it is a received practice that when a priest learns in confession circumstances which show that the penitent's marriage is incestuous he should say nothing about it, but privately procure a dispensation and hand it to the party before informing him of the defect.[4]

Another factor in the introduction of the general rule, moreover, would seem to be derived from the practice of the confessor adopting the probable opinion of the penitent. In such case the question would naturally arise whether the confessor who considered the penitent's opinion evil in morals should endeavor to enlighten him, and this is

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[1] Dom. Soto in IV. Sententt. Dist. XVIII. Q. ii. Art. 4.

[2] Francolini de Discipl. Pœnit. Lib. III. cap. vii. § 3, n. 14.—Becani de Sacramentis Tract. II. P. iii. cap. 38, Q. 14.

[3] Habert Theol. Moral. *De Pœnit.* cap. XI. § iii. Q. 3.—Antoine Theol. Moral. *De Pœnit.* cap. III. Art. iii. Q. 3.

Liguori shows his customary unscrupulousness (Theol. Moral. VI. 610) in citing these passages as a proof that even the rigorists approved the general practice of keeping the penitent in ignorance.

[4] Segneri Instruct. Confessar. cap. vii.—S. Alph. de Ligorio Praxis Confessar. cap. I. § ii. n. 8; Ejusd. Theol. Moral. Lib. VI. n. 611.

This practice is a modern innovation. About 1300 John of Freiburg (Summæ Confessorum Lib. III. Tit. xxxiv. Q. 86) and Astesanus (Summæ Lib. V. Tit. xviii.) say that a confessor thus discovering an impediment to marriage must announce it to the parties so that they may procure a divorce or separate, and in case of their refusal he is to report it to the superior and lay the proofs before him—which shows how little the seal was respected at that time. Fornari is the earliest author whom I have found to suggest the secret procuring of a dispensation (Institt. Confessar. Tract. I. cap. ii.).

the shape in which it is handled by the earlier probabilists, such as Henriquez and Sayre—the latter of whom quotes an affirmative opinion from Adrian VI., which he says is adopted by some authors while he considers that the confessor can absolve without enlightening.[1] Tomás Sanchez treats it somewhat as a disputed question, but is of the opinion that the confessor ought to instruct the penitent whom he finds pertinaciously addicted to an erroneous opinion.[2] The Roman Ritual prescribes instruction, though with such guarded phraseology as to enable the probabilists to elude the injunction.[3] A few years after this van der Beek presents us with the view generally accepted by the moderns—if the ignorance of the penitent is vincible, he ought to be instructed; if invincible and instructing him would cause scandal, or it is likely that he will remain in the same state or worse, the confessor is not required to admonish him, and though it is not lawful to lie to him outright some means should be found to keep him in his erroneous *bona fides.*[4] Still the practice was too abhorrent to all sense of ethical duty to be universally adopted as yet, and even so lax a probabilist as Juan Sanchez emphatically declares that the business of the confessor is not limited to binding and loosing, but includes instruction as to what actions are wrong and in teaching the penitent to distinguish between what is sinful and what is lawful.[5] Laymann considers the question at some length and gives a somewhat qualified assent to the practice, warning the confesssor that he must exercise careful discrimination.[6] The laxer view triumphed, however, among the probabilists, and they universally gave in their adhesion to it, even so moderate a one as Lohner accepting it; if the penitent begins to feel doubt and to enquire the the confessor should tell him only so much as appears likely to do good, keeping silence or equivocating as to the rest.[7] It is one of

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[1] Henriquez Summæ Theol. Moral. Lib. VI. cap. xxvi. n. 6; cap. xxviii. n. 1, not. b.—Sayri Clavis Regia Sacerd. Lib. I. cap. ix. n. 2-4.—Adriani PP. VI. Disput. in IV. Sentt. fol. cxxxiii. col. 3 (Romæ, 1522).

[2] Th. Sanchez in Præcept. Decal. Lib. I. cap. ix. n. 31.

[3] Rituale Roman. Tit. iii. cap. 1. "Opportunas correptiones ac monitiones, prout opus esse viderit, paterna caritate adhibebit."

[4] Becani de Sacramentis Tract. II. P. iii. cap. 38, Q. 14.

[5] J. Sanchez Selecta de Sacramentis Disp. XXXI. n. 2, 14; XXXIII. 42.

[6] Layman Theol. Moral. Lib. VI. Tract. vi. cap. 13, n. 5, 6.

[7] Escobar Moral. Theol. Tract. VII.; Exam. iv. n. 38.—Busenbaum Medullæ Theol. Moral. Lib. VI. Tract. iv. cap. 2, Dub. 5, n. 7.—Marchant Trib. Anim.

the complaints of La Quintanye to Oliva that his brethren held to the rule that it is better to leave penitents in a state of ignorance in which they do not commit sin than to cause them to sin by enlightening them, and the anti-probabilists all agree with him in repudiating the practice, for the very good reason that the presumed obstinacy of the penitent shows him to be indisposed for absolution.[1]

Benedict XIV., when speaking *ex cathedra*, admitted that instruction in the confessional might cause graver evils than it removed, but he did not shut his eyes to the fact that others might think acts permissible which they saw performed by those freely received to the sacraments.[2] Peter Dens not only says that, as a rule, where there is not hope of amendment, the penitent is to be allowed to remain in inculpable ignorance, but also where the ignorance is culpable, though in the latter case absolution should be withheld.[3] Liguori considers the subject at much length. He admits that the anti-probabilists require the confessor to instruct the penitent and remove his ignorance, but the opposite opinion is the common one and should be followed. The confessor is bound not to tell the penitent too much or to examine him too closely, or to reply too definitely to his questions when this may have the result of enlightening him as to his sins of which he is invincibly ignorant, for with such knowledge may come disobedience, converting material sin into formal, and his second state will be worse than his first. God only considers himself offended by formal sin, and the penitent would thus be converted from a friend into an enemy of God. He argues away the presumable indisposition of the sinner by saying that it is merely interpretative, and therefore not to be considered. It is the same as to making restitution, avoidance of occasions of sin etc.; the con-

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Tom. I. Tract. II. Tit. 5, Q. 3, Concl. 1; Tract. V. Tit. ii. Q. 5; Tit. iii. Q. 7; Tit. v. Q. 6, Concl. 3.—Tamburini Meth. Confess. Lib. III. c. iv. n. 3–7.—Lohner Instruct. Pract. de Confess. P. I. cap. iii. § 2.—Viva Cursus Theol. Moral. P. VI. Q. viii. Art. 5, n. 4.—La Croix Theol. Moral. Lib. I. n. 443; Lib. VI. P. ii. n. 1758.—Reiffenstuel Theol. Moral. Tract. XIV. Dist. viii. Q. 5, n. 52–4.—Voit Theol. Moral. I. n. 21.—Herzig Man. Confessar. P. II. n. 23.

[1] Döllinger u. Reusch, II. 6.—Gonzales Fundament. Theol. Moral. Diss. XIV. n. 135.—Pontas, Dict. de Cas de Conscience s. v. *Confesseur* I. iv.—Summæ Alexandrinæ P. I. n. 473.—Concina Theol. Christ. contracta Lib. II. cap. ii. n. 1, 3.

[2] Benedicti PP. XIV. Constit. *Apostolica* § 20, 26 Junii, 1749.

[3] P. Dens Theologiæ Tom. I. n. 180.

fessor is to weigh the probable benefit from obedience against the probable evil of disobedience, and govern himself accordingly in giving or withholding monitions and instructions.[1] It is a curious admission that the divine law of confession and the precepts of the Church may work evil, and that the confessional is merely an instrument for the granting of absolution, and not for the moral elevation of the sinner and the inculcation of the laws of morality and justice. The sinner is to be allowed to continue sinning because he can sin with impunity while ignorant, and thus remain a friend of God, while instruction will only make him sin knowingly and thus convert him into an enemy of God.

If there could be any doubt prior to Liguori, there can be none now that the confessor must abstain from enlightening invincible ignorance unless he thinks it more probable that the sinner can be reclaimed. Marc even instructs the confessor, when seeking to ascertain whether the ignorance is *bona fide* or not, to exercise caution so as not to awaken doubt which may convert it into *mala fides*, and he emphasizes the rule that if the penitent feels doubts and asks questions they must be answered strictly and all collateral information be withheld.[2] Bonal goes still further, and teaches the extraordinary doctrine that if the penitent shows by questions that his ignorance is not invincible but culpable, and there is no hope of amendment, while there may be hope that his error can be changed from vincible to invincible, so that in future he will sin materially rather than formally, then the confessor must evade his questions and not give him the instruction he seeks, but put him off with some general remark, such as "Every one must provide for his own salvation as his conscience may dictate."[3] Thus souls are to be deliber-

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[1] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 610, 616.-- Ejusd. Istruzione Pratica Cap. 1, n. 40; Ejusd. Praxis Confessar. n 8, 108–115.

[2] Gousset, Théol. Morale I. 69–70.—Scavini Theol. Moral. Tract. X. Disp. 1, Cap. 4, Art. 4, § 3, Q. 4.—Martinet Theol. Moral. Lib. III. Art. xiii. § 2.—Marc Institt. Moral. Alphons. n. 1809–10.

Bishop Zenner (Instruct. Pract. Confessar. § 101, c, d) states the alternatives of giving and withholding instruction, without deciding between them, but with an evident leaning to instruction.

[3] Bonal Institt. Theol. T. V. *De Act. Human*. n. 108, 113.

Bonal is a writer of undoubted authority. His work has gone through many editions, in the course of which it has been repeatedly revised by consultors

ately misled as to good and evil in obedience to the fanciful subtilties of the schools, and men are to be indirectly encouraged to sin under the idea that thereby they escape offending God. In place of the confessor inculcating on his penitent the laws of God, he is to cultivate and stimulate ignorance of them so that their infraction may be less sinful.

The greatest triumph of this principle of leaving the penitent's conscience uninstructed and free to commit material sin is the manner in which it has enabled the Church to escape from its embarrassing position with respect to usury, or the lending of money or other article of value with the expectation of profit, great or small. The medieval Church inherited the condemnation of this from the Old Law and the Fathers, and prohibited it as a mortal sin, under whatever guise it might show itself and no matter what ingenious device might be employed to hide it. Absolution could only be had by the living and Christian burial by the dead, on condition of complete restitution of all gains, and so much worse was it considered than ordinary theft that, as we have seen, it was not allowed to enjoy the benefit of *parvitas materiæ*—even the most trivial of gains could not render it venial. To defend the taking of interest was declared a heresy to be prosecuted by the Inquisition, and all secular laws authorizing the enforcement of such contracts were ordered to be erased from the statute-books.[1] The immense space allotted to the subject in all the manuals shows the extreme importance attached to it and the difficulty of meeting the ingenious devices invented to elude the prohibition. Even in the seventeenth century Alexander VII. and Innocent XI. condemned propositions framed to mitigate in some degree the rules forbidding interest, and these decrees are still nominally the law of the Church.[2] About the

of the congregation of the Index, and it is largely used in seminaries for the training of priests.

Somewhat similar is the advice of Pallavicini to the confessor not to be rigorous, for in place of a sin which, committed in ignorance and good faith, is merely material, there follows a formal sin committed against the conscience. —Gousset, Théol. Morale, I. 100.

It is significant to observe how general is the assumption that the penitent will continue to sin in spite of whatever the confessor may say or do.

[1] Alex. PP. IV. Bull. *Quod super nonnullis*, 1258 (Raynald. Annal. ann. 1258 n. 23).—Cap. 1 Clement. Lib. v. Tit. 5.

[2] Alex. PP. VII. Decr. 18 Mart. 1666, Prop. 42; Innoc. PP. XI. Decr. 2

middle of the eighteenth century the commercial spirit rebelled against these shackles, and a controversy arose which Benedict XIV. vainly endeavored to quiet.[1] The theologians began to waver, and Liguori advised the confessor to be guided solely by what seemed to him to promise best; when no result appeared likely to follow a warning to the penitent that he must restore usurious gains, it could be omitted.[2] Confessors followed their own convictions of laxity or rigorism, producing wide-spread confusion and the sore troubling of many consciences until the pressure on the Holy See for relief became irresistible, and in a series of decrees, between 1822 and 1838, it ordered that no one should be disturbed for taking legal interest who was prepared to obey the decision of the Holy See when it should be rendered—a decision which has never been issued; even if penitents themselves consider the taking of interest to be a sin they are to be absolved. In 1872 a further decision was rendered ordering that those who receive eight per cent. shall not be troubled.[3]

Casuistry was the natural outcome of probabilism. As soon as the proposition was enunciated and accepted that the sin of an action must depend on probability, that the less probable opinion favoring liberty could safely be followed, and that extrinsic probability, based on the dictum of one or more authors sufficed, an immense stimulus

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Mart. 1679, Prop. 41, 42.—Mig. Sanchez, Prontuario de la Teol. Moral, Tract. xx. Punto 5, n. 5.

[1] Bened. PP. XIV. Bull. *Vix pervenit,* 1745.—Benedict was in favor of the rigid enforcement of the old rules. See his *De Synodo Diœcesana* Lib. v. Cap. iv. n. 1, 2, and his *Casus Conscientiæ,* Oct. 1738, cas. 2; Dec. 1738, cas. 1; Feb. 1740, cas. 1; Nov. 1741, cas. 3; Maii 1743, cas. 1.

[2] S. Alph. de Ligorio Theol. Moral. Lib. vi. n. 609–16; Praxis Confessar. n. 8.

[3] Sanctæ Apostolicæ Sedis Responsa circa Lucrum ex Mutuo, Pisauri, 1834. —Mig. Sanchez *ubi sup.*—Varceno Comp. Theol. Moral. Tract. xii. P. ii. Cap. 1, Art. 6, § 2, Punct. 4.

Gury even shows (Casus Conscient. I. 946–7) how extortionate rates can be obtained, without wounding the conscience, by the device of fictitious purchases and sales of securities through brokers. The evasion of usury by pretended purchase and sale was an old device, known as *Mohatra,* which gave immense trouble to the moralists and was repeatedly condemned.

In the *Yale Review* for February, 1894, I have considered at some length the very curious history of the relations of the Church to the sin of usury.

was given to the already too perverse inclination to devise new arguments which should upset established convictions. Every question of practical morals and conduct was scrutinized to see whether ingenuity could not frame some plausible reason which should give an air of probability to a "benignant" opinion mitigating the deformity of sin. If the theologians were correct in saying that the truth or falsity of an opinion is indifferent, provided that the actor believes it to be probable, and further that the laxer opinions are the safer because they lessen the chances of the one great sin of disobedience, the casuists were rendering a service to human souls, if not to virtue and morality, in devising dialectics which should enable men to gratify their desires and their passions without incurring the responsibility of formal sin. The more audacious the speculation the more applause the speculator would win, and his conclusions would be eagerly grasped by confessors anxious to guide the consciences of the great ones of the earth, and by sinners flocking to the confessionals of those who were known for their skill in removing the asperities of the path to heaven. It was not without reason that Diana, the greatest of the casuists, was honored with the title of Agnus Dei—the Lamb of God who took away the sins of the world. How easily it was for a skilled casuist to prove anything was convincingly shown by the celebrated Jesuit Théophile Renaud, when, in 1631, tired of the repeated condemnation by the Sorbonne of the propositions of his brethren, he parodied them by printing the Apostles' Symbol, appending to each article a censure proving it to be false, heretical, erroneous, scandalous, etc.[1]

Influences such as these could only grow stronger with development and the results could only be deplorable. The perverse ingenuity of the casuists excited the indignation of all right-thinking men. It was not only the rigorists, like Godeau, Bishop of Vence, who, in a pastoral epistle, speaks of them as introducing a system of morals of which decent pagans would be ashamed and by which good Turks would be scandalized,[2] but even probabilists themselves were shocked by the licence of their teaching. The Jesuit Terrill, who distinguished himself by systematizing the principles of reflex prob-

[1] D'Argentré Collect. judic. de novis Error. II. II. 351.

[2] Ordonnance de M. l'Evesque de Vence (Arnauld, Morale des Jésuites, p. 827).

abilism, declares himself as horrified at the laxity in which innumerable casuists had rivalled each other during the previous thirty years in the effort to gain popularity by impudently erasing the divine laws from the tables of God and of the Church.[1] Some twenty-five years earlier Marchant had uttered the same complaint; since this Sect of Opiners had undertaken to interpret the mandates of God, deceit and mendacity had supplanted Christian simplicity; the precepts of Scripture are perverted from their proper sense. Paul is despised and Peter held as naught, for a theological lawyer or apothecary or mason who can build a wall without mortar is preferred to them.[2] It was in vain that the Universities of Paris and Louvain condemned one series after another of atrocious propositions drawn from widely circulated books. It was in vain that Alexander VII. and Innocent XI. censured a few of the most detestable. In the latter half of the eighteenth century Voit tells us that there is no opinion so extravagant but has an author to support it, and the rule that one can act on such opinions opens the door to innumerable crimes.[3] A further abuse, condemned by Rieffenstuel, is that committed by men who after an act seek to quiet remorse by hunting for justification in the casuists: this he likens to giving medicine to the dead, for it is the conscience before the act that regulates the sin.[4] Yet Liguori, as we have seen, defends the casuists, and his disciple Scavini says that he venerates and follows them, for they have as their chiefs and masters Raymond and Bonaventura, Aquinas and Antonino.[5]

The art of the casuist is a wonderful exhibition of technical dialectic which has nothing in common with morals. How flexible an instrument it became in the hands of experts, furnished with contra-

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[1] Concina, Storia del Probabilismo Lib. II. Diss. ii. cap. 9, n. 1.

[2] Marchant Tribunal. Animar. Tom. I. Tract. v. Tit. 5, Q. 3, Concl. 4. Yet Marchant himself (Ibid. Concl. 6) is not guiltless of casuistry in the example he gives of a safer opinion. A confessor doubts whether a sin confessed to him is reserved or not. The safer opinion would certainly appear to be that it is reserved, as the Council of Trent had pronounced priestly absolution of reserved sins invalid, but Marchant asserts that the safer opinion is that it is not reserved, because it is safer to absolve the penitent than to leave him in his sin.

[3] Voit Theol. Moral. I. 94.

[4] Rieffenstuel Theol. Moral. Tract. I. Diss. iii. n. 51.

[5] Scavini Theol. Moral. Tract. I. Disp. ii. cap. 3, Art. 2, § 3, A. Q. 5.

dictory opinions on almost every question, is illustrated by Benedict XIV., who puts a case and answers it in the affirmative on the strength of certain authorities; eighteen months later he again discusses the same case, reaching a negative conclusion, by citing other authorities and using a line of argument precisely reversed.[1] This illustrates what Tomás Sanchez tells us, that we constantly see opposite conclusions drawn from the same principle, differently understood and applied,[2] which explains how moral theology became so unstable and so utterly devoid of all certainty. We may readily believe that Queen Isabella of Portugal spoke from unvaried experience when she said that she had never consulted a physician, a lawyer or a theologian without getting the opinion which she desired.[3] The refinement of distinctions employed in these processes may be estimated from one or two cases. If there is any matter in human society about which there should be no question it is the validity of marriage, yet in the case of a chaplain who by fraud obtains from an absent parish priest a licence to marry a couple, it is asked whether the marriage is good, and the answer is that it depends on whether the fraud of the chaplain was the whole and final cause or motive or only the impulsive motive; in the former case the marriage is null, in the latter it is binding. In another case a man who is betrothed to a woman whose sister he had debauched obtains from the papal Penitentiary a dispensation for his marriage conditioned on the impediment being secret and on the impossibility of breaking off the match without scandal. The discussion turns, not on the moral aspects involved, but on the question whether the impediment is to be considered public if it is known to three persons.[4] With the development of probabilism this casuistic dexterity was cultivated with the utmost ardor. We have seen (I. p. 126) how, towards the close of the sixteenth century, one of the features of the counter-Reformation was the founding of seminaries and the training of students and confessors in the discussion of cases of conscience. The Jesuits, who rightly regarded the confessional as their most fruitful field of activity, gave, from an early period, special attention to this phase of

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[1] Bened. PP. XIV. Casus Conscientiæ, Oct. 1741, cas. 2; Mart. 1743, cas. 1.
[2] Th. Sanchez in Præcept. Decal. Lib. I. cap. ix. n. 12.
[3] Clericati de Pœnit. Decis. XXXVI. n. 12.
[4] Bened. PP. XIV. *op. cit.* Nov. 1735, cas. 1; Mart. 1736, c. 1, 2.

its duties. In their seminaries there were regular professors of cases of conscience, and the students were assembled every Saturday to discuss cases submitted to them: after each was disposed of the presiding officer pointed out which was the safest and which the most probable opinion.[1] Under such discipline there is no cause for wonder that the Jesuits acquired the reputation of the most skilful and subtle casuists. In its essence the casuistic process is strictly logical. Bonal explains that every case of conscience is to be solved by a syllogism; if the major and minor are correctly stated, with all the modifying circumstances, the conclusion is inevitable; the great source of error lies in the insufficient or erroneous statement of the premise, whence it arises that in the great majority of cases there are as many solutions to a case as there are casuists who discuss it.[2] That this should be so is unavoidable in the infinite multitude and gradations of human impulses and the complexity of the precepts, more or less authoritative, with which the moralists have environed them. The trained casuist can always find a major premise which will give to the desired conclusion the aspect of impregnable logic, especially when he is allowed to perform his feats of prestidigitation with probabilities in default of certainties.

It would carry us too far to enter into the details of the innumerable dangerous and immoral propositions set forth in the writings of the casuists, and these are presumably scarce a tithe of those which have been devised and utilized by directors of conscience in the, secrecy of the confessional. La Quintanye, in his letter to Oliva happens to mention an incident which indicates how little scruple there may be in devising excuses to soothe a troubled conscience. He relates that a confessor told him of the case of a noble maiden who contracted a clandestine marriage before witnesses and consummated it; her parents, in ignorance, favored another suitor, and

[1] Ratio Studior. Soc. Jesu, Antverpiæ, 1635, pp. 71–3.

The supreme importance attached to the subject is seen in the instructions issued by the seventh Congregation, in 1615—"Curandum insuper est ut theologi et casistæ scholastici in casibus conscientiæ maxime instructi sint, cum minime obscurum est quam res pernecessaria sit operariis Societatis. In quam quidem rem vehementer cupimus a superioribus diligenter incumbi."—Instruct. xx. n. 6. (Antverpiæ, 1635, p. 104).

[2] Bonal Institt. Theol. T. V. *De Act. Human.* n. 98—"sæpe sæpius tot sunt solutiones ejusdem casus quot casuistæ."

fearing to reveal the truth, she married him. After some years she confided to her Jesuit confessor that she had two husbands, when he told her that it was nothing, and on La Quintanye's asking him his reasons he said that it was a probable opinion that a marriage without the parents' knowledge is invalid.[1]

Pascal, with his inimitable wit and caustic raillery, has sufficiently exposed some of the more glaring of the immoralities justified by the casuists of his time, and the *Provinciales* is so widely read that a repetition of his enumeration is superfluous, even at the present day. It is therefore only necessary to refer to one or two subjects to illustrate the methods of the system. Before doing so, however, I may point out that in one case which has attracted much attention—the justification of killing in defence of honor—he did the Jesuits injustice. The case covers that of duelling, which the Church has always condemned with a pertinacity of rigor that has unquestionably been of great service, but it was not left for the Jesuit casuists to devise means of eluding the repeated precepts of the Holy See, reinforced by the utterance of the Council of Trent. Early in the sixteenth century Prierias had already declared that a man is justified in maintaining his honor to the death rather than to fly with disgrace, and a half century later Azpilcueta repeated the assertion, the argument being that it is licit to slay in defence of life or property, while honor is more to be prized than either.[2] Pedro de Aragon says the same as regards gentlemen, but not as to clerics and plebeians, though he denies that this justifies the duel.[3] The probabilists merely followed the older view, but it was not approved by the Holy See, and by a decree of June 18, 1651, the theology of Francisco Amigo, S. J. was prohibited *donec corrigatur* on account of his teaching it, while Caramuel was obliged to retract an earlier opinion in its favor and to argue that though permissible under the law of nature it is forbidden by civil and ecclesiastical law, and that a man surrenders his rights when he enters society. Still Liguori quotes from Busenbaum an opinion to the effect that it is allowable to gentlemen but not to clerics or plebeians, for the latter can run away, and he sanc-

[1] Döllinger u. Reusch, II. 7.

[2] Summa Sylvestrina s. v. *Homicidium* I. § 5.—Azpilcuetæ Man. Confessar. cap. xv. n. 4.

[3] Pet. de Aragon de Justitia et Jure Q. LXXXIV. Art. vii.

tions it in principle, for he adds only that it should be very rarely used in practice.[1]

Casuistry is probabilism practically applied, and its methods are illustrated by another celebrated question which created much debate —the justification of theft in necessity. The socialistic tendencies which underlie Christianity favor the speculation that originally all things were in common, and that man is only exercising a natural right when in extremity he relieves his necessities at the expense of his more fortunate fellows. The dangerous proverb that necessity knows no law but makes law for itself received the endorsement of a place in the Decretum of Gratian,[2] but Bernard of Pavia, while citing the axiom, only admits that necessity mitigates the punishment due to theft.[3] S. Ramon de Peñafort included in the Decretals of Gregory IX. a canon from the Penitentials prescribing three weeks' penance for stealing under necessity, which infers that it is a sin, but in his Summa he says that it is not theft, nor is it a sin.[4] Alexander Hales draws the distinction which occupied the minds of the casuists by saying that it depends on whether the necessity is light or extreme—in the former case it is sin, in the latter it is not to be considered as theft, for in necessity all things are common.[5] It is probable that the apotheosis of beggary which followed the rise of the Mendicant Orders contributed to the adoption of this view, which is common among the schoolmen.[6] Angiolo da Chivasso goes even further and asserts that theft is permissible even when the necessity is not extreme,[7] which was an innovation, for the

[1] Val. Reginald. Praxis Fori Pœnit. Lib. XXI. n. 60.—Layman Theol. Moral. Lib. III. Tract. iii. P. 3, cap. 3, n. 2, 4.—Caramuelis Theol. Fundam. n. 1566.—S. Alph. de Ligorio Theol. Moral. Lib. III. n. 381.—Lexicon Theol. Moral. ex Opp. S. Alph. de Ligorio s. v. *Defendere*.

The rigorists deny the right to kill except when absolutely necessary to defend life or property.—Piselli Theol. Moral. Summæ P. I. Tract. vii. cap. 5.

[2] C. 39 § 1, Caus. I. Q. 1.

[3] Bernardi Papiens. Summæ Lib. v. Tit. xxvi. § 7.

[4] C. 3 Extra v. xviii.—S. Raymundi Summæ Lib. II. Tit. vi. § 6.

[5] Alex. de Ales Summæ Lib. III. Q. xxxvi. Membr. 3.

[6] Hostiens. Aureæ Summæ Lib. v. *De Furtis*, § 1.—S. Th. Aquin. Summæ Sec. Sec. Q. LXVI. Art. 7.—P. de Palude in IV. Sentt. Dist. XVII. Q. 1, Art. 6.—Summa Pisanella s. v. *Furtum* § 7.—S. Antonini Summæ P. I. Tit. 20 (Ed. Venet. 1582, T. I. fol. 294 col. 3).

[7] Summa Angelica s. v. *Furtum* n. 37.

definition of the extreme necessity legitimating theft had been and continued to be that in which death would follow without speedy succor.[1] While all admitted the innocence of theft in necessity, the exact degree of necessity justifying it was not so easily determined, and the tendency to laxity in this, as in other matters, developed itself among the probabilists. Grave necessity was conceded as entitled to the privilege, and this was somewhat loosely defined to be not only the danger of mortal sickness or shortening of life, but also of losing one's position or any other serious evil, thus opening the door to peculations and embezzlements of all kinds.[2] Diana teaches that in extreme necessity a man can borrow and retain, or use what is deposited with him, without being held to make restitution if he becomes able; he can steal what he requires, openly or secretly, and if the owner resists he can slay him with impunity; even in grave necessity of sickness, danger or nudity he can take what he needs.[3] To this Caramuel replied that if a sick man can steal what he wants to pay for physicians and medicines, a hungry man to fill himself, a ragged man to get decent garments, then a debtor can steal to pay his debts, a soldier to buy arms, an accused man to fee a lawyer; a limitless field of honest theft will be thrown open, and there will not be a thief left in the world.[4] The doctrine was evidently receiving an extension threatening the basis of social order, and among the propositions condemned, in 1679, by Innocent XI. was one which declared it permissible to steal not only in extreme but in grave necessity.[5] He did not however condemn the atrocious one that an owner who resists may be slain, and the Salamanca theologians developed it; the owner is not bound to give but he has no right to resist, for extreme necessity confers the right of appropriation; he is to be regarded as an invader of the rights of the necessitous, and therefore can be slain if necessary; it is true that you should first ask for assistance if you are a person to whom beggary would not be a disgrace, but even in default of this the sin is only venial. They admit that the condemnation of Innocent XI. forbade stealing in grave

[1] Caietani Summula s. v. *Eleemosyna.*

[2] Sayri Clavis Reg. Sacerd. Lib. IX. cap. xiv. n. 17.

[3] Summa Diana s. v. *Pauper* n. 3–5.

[4] Caramuelis Theol. Fundam. n. 1766.

[5] Innoc. PP. XI. Prop. XXXVI. "Permissum est furare non solum in extrema necessitate sed etiam gravi."

necessity, but then there is much difficulty in differentiating grave from extreme, and the doctors are by no means agreed about it. For themselves they define grave necessity to be that in which there is lacking what is necessary to one's station in life, involving risk of honor, of losing position, exposure to infamy, imprisonment, etc.,[1] and even these, when the danger is great, justify theft. Some theologians contented themselve by adding *valde* to *gravis*, making it "very grave," while Viva explains how a poor man by the use of *epikeia* can steal what he imagines the owner would not object to, and if the necessity approximates to extreme, so as to be quasi-extreme, he can take whatever is requisite for his relief without being obliged to make restitution in case of subsequently becoming affluent.[2] La Croix's definition of grave necessity is when a man is threatened with misery, rendering life unhappy, or obliging him to live on bread and vegetables, or exposing him to ignominy through lack of clothes, and he suggests the word "urgent" as sufficient to avoid Innocent's condemnation.[3] Sporer nominally accepts the papal decree, but adds that he who in grave necessity steals from a rich man is not easily to be held guilty of mortal sin.[4] The question of killing an owner who resists appears to have dropped for a time out of sight, but Liguori admits its justification in principle when he says that the owner who impedes such a theft sins against justice, and if his resistance is successful he is liable to the heirs of the thief for all damages arising from it.[5] Teachings such as these are not far removed from those of communism and anarchism.

Another form of permissible theft which gained wide extension under the skilful hands of the casuists is that known as "occult compensation," by which a person is allowed to steal what is requisite to recover a debt or claim. Originally this merely meant that a man

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[1] Salmanticens. Cursus Theol. Moral. Tract. XIII. cap. 5, n. 30, 32–39.

[2] Viva Comment. in Prop. 36 Innocent. XI. n. 10, 14.

[3] La Croix Theol. Moral. Lib. III. P. i. n. 957.

[4] Sporer Theol. Moral. Tract. V. cap. 5, n. 105–6.

[5] S. Alph. de Ligorio Theol. Moral. Lib. III. n. 520.

The rigorists accepted as a matter of course the justification of theft by extreme necessity, but they were disposed to be far more rigid in their definition of the term and rejected all glosses on the decree of Innocent.—Habert Theol. Moral. *de Conscientia* cap. IV. Q. 1.—Concina Theol. Christ. contracta, Lib. VI. Diss. 1, cap. 3 §§ 12, 13.

might furtively regain possession of some object belonging to him in the hands of another, and even this, according to Aquinas, is a sin, although it does not entail restitution,[1] while Alexander Hales emphatically tells servants whose wages are unpaid that they cannot steal to make them good, for the claim does not make the master's property theirs, but only that it ought to be theirs.[2] By the time of St. Antonino the privilege had become extended to the recovery of debts when legal process was unavailing, but it was surrounded with limitations and conditions rendering it exceeding difficult in practice.[3] Evidently there must have been continuous and tremendous pressure in the confessional on the part of servants and peasants who could hope for little redress at law, who habitually righted themselves in this manner for real or pretended losses, and we have seen how the Church habitually leaned to the "benignant" side to avoid, as the phrase is, driving the sinner to desperation by refusing absolution. It gradually yielded, and although Domingo Soto adheres to the opinion of Aquinas, that occult compensation is a sin,[4] yet in Azpilcueta we find it fairly established, subject, however, to the old limitations, but with the addition that the thief if prosecuted could defend himself by perjury with mental reservation.[5] Shortly after this the Holy See accepted the principle, for Manuel Sa, in his widely-circulated *Aphorismi Confessariorum*, briefly stated that if you cannot conveniently otherwise collect a debt you can steal it, and can afterwards swear that you have not received it—that is to say, illicitly. The book was one of those which passed under the censorship of the only Roman Expurgatory Index. This merely limited it to cases where it can be done without risk to the reputation of anyone, and where care is taken that the amount is not paid a second time. For the passage concerning perjury was substituted a provision that the thief is not required to reveal it if excommunication is published against those who had committed the theft. A subsequent passage stating that, if the theft is for a doubtful claim, it is a disputed question whether restitution must be made, escaped all

[1] S. Th. Aquinat. Summæ Sec. Sec. Q. LXVI. Art. 5 ad 3.

[2] Alex. de Ales Summæ P. IV. Q. xxiv. Membr. 5, Art. 3.

[3] S. Antonini Summæ P. II. Tit. 1, cap. 15, § 1.

[4] Dom. Soto de Justitia et Jure Lib. V. Q. iii. Art. 1.

[5] Azpilcuetæ Man. Confessar. cap. xvii. n. 112–17. See also Petri de Aragon *de Justitia et Jure* Q. LXII. Art. ii.

censure.[1] Rebello soon afterwards says that unless all the conditions are strictly observed occult compensation is a mortal sin, though restitution need not be made.[2] The casuists were not satisfied with these limitations, and enlarged the privilege of theft with almost incredible laxity. Servants were authorized to pilfer when they judged that their wages were inadequate to their services, compensation for injuries and insults was allowed, questionable debts and those not yet matured were included, and even priests who had not been paid for masses were allowed to compensate themselves if the defaulter paid for more, or if compelled to accept too small an "alms" could steal to make it up. Open violence was forbidden, but burglary was allowed. It was argued that collection by legal process is always difficult and uncertain, and therefore need not be resorted to; if convenient, precaution should be taken to prevent a second payment by a fictitious condonation of the debt, but this was not essential, and there should be care that accusation for the theft should not be allowed to fall on an innocent third party, but if this occurred and he was condemned to the galleys or other severe punishment, the thief was not called upon to compensate him, and could always defend himself by perjury.[3]

The freedom thus allowed to servants to compensate themselves at discretion was naturally that which excited the greatest popular repugnance to these teachings, and Innocent XI., in 1679, included it among the condemned propositions, though he paid no attention to

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[1] Em. Sa, Aph. Confessar. s. vv. *Debitum* n. 22, *Furtum* n. 5.—Index Brasichellens. p. 351 (Bergomi, 1608).

The original passage reads "Debitum tibi si non potes aliter commode recuperare potes clam tollere, et postea jurare te non accepisse, scilicet illicite" (Ed. Antverp. 1599). The corrected passage is "Debitum tibi si non potes aliter commode recuperare potes clam tollere: modo cures ne creditor iterum solvat, et id fiat sine scandalo et sine periculo tuæ vel alienæ famæ aut vitæ. Neque teneris revelare etiam si prælatus præcipiat sub pœna excommunicationis, si est probabile quod revelans cogeris restituere. Imo neque tenentur alii quicunque sciunt si certo sciant te hoc modo juste accepisse" (Ed. Venet. 1617).

[2] Rebelli de Obligationibus Justitiæ P. I. Lib. ii. Q. 18, n. 6, 7.

[3] Alph. de Leone de Off. et Potest. Confessar. Recoll. XI. n. 618-32.—Tamburini Explic. Decal. Lib. VI. Tract. ii. cap. 5 § 1.—Salmanticens. Cursus Theol. Moral. Tract. XIII. cap. 1, n. 318-24.—Zuccheri Decis. Patavin. Mart. 1708, Q. ii.—Viva Cursus Theol. Moral. P. III. Q. vi. Art. 3, n. 9; Ejusd. Comment. in Prop. 37 Innoc. XI. n. 12, 13.

the other abuses.[1] Even this was to a great extent eluded by arguing that while servants could not put their own estimate on their services, they could steal if they did not get the customary rate of wages or what some "prudent" man might consider proper; Liguori even says they can do so if their employer has compelled them to hire themselves at too low a rate.[2] It was in vain that the anti-probabilists protested against the relaxation of the ancient limitations and pointed out that occult compensation opened the door to the violation of all law, human and divine, giving occasion to frauds and thefts and disturbing social order.[3] It would probably be impossible for the confessor to put an end to such thieving, and it is thought better to recognize it as allowable, when, at the worst, it became merely material sin. All the modern authorities, therefore, permit it, with some variety in the conditions imposed, but with the extension of applying it to cases where pleaders have been unjustly condemned by court to make payments.[4] The result of the rule is seen in the fact that statistics in France show that of all callings that of domestic servants shows the largest percentage of criminals.[5]

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[1] Innocent. PP. XI. Prop. 37. "Famuli et famulæ domesticæ possunt occulte heris suis surripere ad compensandam operam suam quam majorem judicant salario quod recipiunt." A century earlier Domingo Soto tells us (De Justitia et Jure Lib. v. Q. iii. Art. 3) that this is one of the commonest cases arising in the confessional, and he decides it absolutely in the negative, in which he is followed by Rebello (De Obligationibus Justitiæ P. II. Lib. xiv. Q. 15, n. 9).

[2] Viva Cursus Theol. Moral. P. III. Q. vi. Art. 3, n. 8; Ejusd. Comment. in Prop. 37 Innoc. XI. n. 1, 12, 13.—Fel. Potestatis Examen Eccles. T. I. n. 2643-8.—Sporer Theol. Moral. Tract. v. cap. 5, n. 83-4.—S. Alph. de Ligorio Lib. III. n. 522.

[3] Concina Theol. Christ. contracta Lib. VI. Diss. 1, cap. 5.—Patuzzi, Lettere di Eusebio Eraniste, Lett. v. VI.

[4] Gousset, Théologie Morale, T. I. n. 777.—Kenrick Theol. Moral. Tract. III. n. 167.—Gury Compend. Theol. Moral. I. n. 622-5.—Bonal Institt. Theol. Tract. *de Justitia* n 180-1.—Varceno Comp. Theol. Moral. Tract. XIII. P. ii. cap. 3, Art. 1, § 2.—Miguel Sanchez, Prontuario de la Teología Moral, Tract. XX Punto vi. n. 1.—Marc, Institt. Alphons. n. 916-18.—Pruner, Lehrbuch der katolischen Moraltheologie, p. 680.

For cases illustrative of the practical working of occult compensation, see Gury Casus Conscient. I. 106, 499, 500, 573, 575, 576-8.—Bertolotti Sylloge Casuum I. 147 (Romæ, 1893).

This subject is one deserving of more extended consideration than space will here permit. I have treated it more fully in a paper in the *International Journal of Ethics* for 1894.

[5] Joly, La France Criminelle, 3e Éd. 1889, p. 254.

A typical instance of casuistic reasoning is that respecting the bribery of judges. One of the early probabilists, Pedro of Aragon, holds that presents made to judges by suitors are prohibited both by positive and by natural law, and if received are liable to restitution.[1] This would seem incontrovertible, but Aquinas, although he assumes that judges receive salaries in order not to be paid by suitors, had also proved that what is paid for an unlawful act is earned and need not be restored, and he instances the gains of a pimp or harlot,[2] whence Busenbaum deduces that although a judge may sometimes sin in accepting presents from suitors, on account of scandal or the perversion of justice, when accepted they are his and need not be restored.[3] It is true that Alexander VII., in 1665, condemned the proposition that when the probabilities on both sides are equal a judge can receive money for deciding in favor of one of the litigants,[4] but this covered only a portion of the question. The theologians considered themselves free to speculate on everything outside of its strict construction, and the conclusion was reached that if a judge is paid for a righteous decision he should make restitution; if for an unjust one he can keep the money, for his act is a service to the successful litigant, and in rendering it he incurs the risk of forfeiting his reputation.[5] Liguori accepts this, except that he says, as to the unjust decision, that the authorities are divided, and therefore that either opinion is probable.[6] Gury reaches the same result, but adds that in practice a judge should be induced to return all bribes or give them in pious uses, and that in conscience a judge rendering an unjust sentence is liable to make good all losses thus inflicted on the defeated party.[7] By a similar process of reasoning it was proved that a witness paid for swearing to the truth is obliged to refund the money, but he can retain what he has received for giving false testimony, though he should make restitution to the injured party.[8]

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[1] Petri de Aragon de Justitia et Jure Q. LXXI. Art. iv.

[2] S. Th. Aquin. in IV. Sentt. Dist. XV. Q. ii. Art. 4, ad 2; Summ. Sec. Sec. Q. LXXI. Art. 4 ad 3.

[3] Busenbaum Medullæ Theol. Lib. IV. Cap. iii. Dub. 2, Art. 4, Q. 4.

[4] Alexand. PP. VII. Prop. 26.

[5] La Croix Theol. Moral. Lib. IV. n. 1498.

[6] S. Alph. de Ligorio Theol. Moral. Lib. IV. n. 213, 216. Cf. Lib. III. n. 712.

[7] Gury Casus Conscient. II. 3, 4.

[8] Azpilcuetæ Man. Confessar. Cap. XXV. n. 45.—Corella Practica Confession. Tract. XV. Cap. 6.—Bonacinæ (De Legibus Disp. X. Q. iii. Punct. 3, n. 17) holds that he can retain the money in either case.

Leasing a house for purposes of prostitution was denounced by Azpilcueta as a sin, but the casuists argued that it could be done for a good purpose, such as getting rent for it, and they pointed out that confessors always had granted absolution to such landlords without requiring abstention, and that it was openly practised in Rome under the direct domination of the papacy.[1]

How the casuists were able to evade all precepts is seen in their treatment as to that prohibiting buying cheap and selling dear. This was an infraction of Christian charity which was regarded with special detestation by the theologians and was branded as a mortal sin involving restitution,[2] though Duns Scotus makes the exception that, if an article has special value to the possessor, he can charge extra if persuaded to sell it, but must not take advantage of the necessities of a purchaser to overcharge him.[3] But Caramuel tells us that there is a maxim *Merces ultroneæ vilescunt*—merchandise forced on the market loses its value—and another *Pecunia ultronea vilescit*—money eagerly offered loses its value. Thus advantage may be taken of the necessities of buyer and seller without sin or requiring restitution. A man, he says, may buy a thing for half its value to-day, if the needs of the seller compel him to sell, and may sell it to-morrow at double its value if the needs or desire of the buyer lead him to pay an unjust price. He instances a case occurring in Brussels, in 1638, where a Spanish noble coveted a fine horse worth 100 ducats; the owner was not desirous of selling, but finally accepted 200. A few days later the noble was ordered to Spain by post; the horse was useless to him, and he could find no purchaser. Finally he sent it to the late owner and asked him to return the 200 ducats, but received only 50. Indignantly he appealed to a theologian for redress, only to be told that there was no sin in the transaction.[4] Now Caramuel, at least in the castigated edition of his *Theologia fundamentalis*, was much less lax than many of his contemporaries. He condemned the hideous traffic by which the Church was furnished with male soprani singers, and the worship of God was assimilated to that of Rhea. It would seem impossible

[1] Azpilcuetæ Man. Confessar. Cap. xvii. n. 195.—Rebelli de Obligationibus Justitiæ P. II. Lib. xiv. Q. 17, n. 7, 8.—Gury Casus Conscient. I. 228.

[2] P. de Palude in IV. Sentt. Dist. XVI. Q. ii. Art. 4.

[3] J. Scoti in IV. Sentt. Dist. XV. Q. ii. Art. 2.

[4] Caramuelis Theol. Fundam. n. 1095–6.

to justify such an abuse, and yet the casuists were equal to it. Great authorities, such as Tamburini, Pasqualigo, Fagundez, Tanner and others argued that it probably was licit and probably was illicit, and as either of two probable opinions can be followed there need be no hesitation as to this. The affirmative probability was based on its being a just cause that there should not be lacking these soprani voices in chanting the praises of God—but the youth must assent to the sacrifice, to which he was allured by the prospect of a life of ease and affluence. Caramuel denies all this; he says that the majority are now with him, and in a few years it will be the opinion of all.[1]

The audacity of speculation in which casuistry indulged is illustrated by a lively debate which arose about the middle of the eighteenth century over what came to be called the *Tatti mammillari.* The learned Jesuit Benzi printed, in 1743, a work on reserved cases, in which he discussed the question whether immodest acts committed with nuns are reserved—acts such as stroking their cheeks and handling their breasts, which he said were in themselves venial and only became mortal through depraved intentions. This afforded too fair a target to be neglected, and Concina and others speedily raised a commotion over it. The Jesuits, in place of disavowing their imprudent brother, warmly defended him. The Inquisition imposed silence on them, but they continued the war anonymously, leading to the fining of their printer and the imprisonment and death of their bookseller. After this the Jesuit Turani, a papal penitentiary, printed a tract in which he proved it to be dangerously near an error in faith to deny the intrinsic indifference of such acts, and this and some others of their tracts were impudently printed in Lucca under Concina's name. As usual, those who denied this novel doctrine were denounced as Pascalists and Jansenists.[2]

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[1] Ibid. n. 1606–18.

[2] Concina, Esplicazione di Quattro Paradossi, Cap. I. § 1. Caramuel took a more practical and less sublimated view of such matters—"Homo enim tangendo tangitur, nec potest non lascivire qui propriis tactibus provocat ad lasciviam. Hæc est veritas unica contra quam nihil audiendum aut dicendum in praxi. Hæc sufficiant pro nostris hominibus qui sunt ex ossibus et carne compacti, et in omni tactu periculum peccandi sentiscunt."—Theol. Fundam. n. 1409.

So Peter Dens (Theologia, T. IV. n. 297), "Attactus uberum fœminæ inter inhonesta et libidinosa computatur; liber enim cui titulus: Dissertatio in Cas.

Mental reservation and allowable perjury and mendacity afforded an ample field for casuistic ingenuity. There are few more intricate questions in morals than the extent to which absolute veracity must be insisted upon, regardless of all other considerations, and the modern standard in this is more severe than that established in antiquity. The *mendacium officiosum*, or useful lie, seems to have aroused no special antagonism in the mind of Plato,[1] and Origen adopted this from him; he admitted useful lies, and Jerome accused the Origenians of being bound together in an orgy of lies.[2] Hilary of Poitiers considers lying and even false testimony not only often useful but necessary,[3] and John Cassianus compares mendacity to hellebore, a poison generally, but sometimes a salutary remedy,[4] while Martin of Braga takes the same view.[5] On the other hand, St. Augustin, to counteract these tendencies, thought it necessary to write his two tracts, *De Mendacio* and *Contra Mendacium*, and in his Manual he emphatically repudiates the argument that lying may sometimes be beneficial, for so also may theft. Equivocation is equally reprehensible; he who deceives by a speciously worded oath is guilty of perjury, it is not the form but the belief which is created that he will be judged by.[6] St. Jerome is equally uncompromising; an oath requires truth, justice and judgment; if it lacks either of

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res. delatus summo Pontifici Bened. XIV. quod doceret tangere mamillas esse de se veniale ab eodem damnatus est anno 1744 16 Aprilis." Cf. Indicem Bened. XIV. 1744, pp. 564, 567.

The Jesuits manifested the same obstinacy in supporting the works of Father Berruyer in spite of repeated papal condemnations (Index Bened. XIV. 1770, pp. 26, 297, 308). These were accused of being full of errors both of doctrine and morals, though the latter consisted merely in the recognized theories of probabilism—"Anéantir l'obligation indispensable d'observer la loi de Dieu par les maximes qui excusent tous les péchés commis par ignorance et qui ne font regarder comme péché que ce qui est fait contre la conscience; justifier les actions les plus évidemment mauvaises et connues pour telles sous prétexte d'une prétendue bonne intention avec laquelle on les fait."—Mandement de Mgr. l'Archéveque de Lyon, 1763, p. 261.

[1] Platonis Politia II. III. (Ed. Astius, Lipsiæ, 1822, pp. 120, 130, 184).

[2] Hieron. adv. Rufin. Lib. I. n. 18.

[3] Hilar. Pictaviens. Tract. in XIV. Psal. n. 10.

[4] Jo. Cassiani Collat. XVII. c. 17.

[5] Martini Bracarens. Opusc. I. c. 4 (Migne, LXXII. 27).

[6] S. Augustin. Enchirid. cap. xxii.—Epist. CXXV. n. 4.

these it is perjury.[1] Gregory I. condemns falsehood, even to save the life of another, though such a sin may be redeemed by pious works.[2] Gregory VII. warned Alfonso VI. of Castile that lying, even with a pious intention for the sake of peace, is sin,[3] and Alexander III. refers to Scripture for the prohibition of lying to save another's life.[4]

The schoolmen began to draw distinctions. In fact, as we have seen (I. p. 426), as soon as the preservation of the seal of the confessional from inquisitive tribunals became essential, there was no other mode of guarding it save perjury, and the confessor was directed to take the most positive oaths of ignorance with the mental reservation that what he had heard was heard as God and not as man. A practice such as this, universally taught, cannot but have had influence in breaking down the reverence inculcated for veracity and have served as a model for subterfuge and equivocation.[5] Aquinas holds it a mortal sin for a guilty man to swear falsely when interrogated, but if the judge has not jurisdiction he is not bound to answer, and must be silent, or appeal, or use some other lawful subterfuge. In promissory oaths there must be no equivocation; an oath must be kept in accordance with the reasonable meaning of its terms.[6] All mendacity is sinful, but a good intention diminishes the sin; it is not lawful to lie to save another, but the truth can be prudently concealed by some dissimulation, and a useful lie for another's

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[1] S. Hieron. Comment. in Hieremiam Lib. I. cap. iv. v. 2.—Gratian. c. 2 Caus. XXII. Q. ii.

[2] Gregor. PP. I. Moralium Lib. XVIII. cap. 3.

[3] Gregor. PP. VII. Regest. Lib. IX. Ep. 2.

[4] C. 4 Extra, V. xix.

[5] The direction of Aquinas to this effect (Summæ Sec. Sec. Q. LXX. Art. 1 ad 2) is quoted by the Salamanca theologians as justifying the rule that an accused person can swear falsely when interrogated by a judge without proper jurisdiction.—Salmanticens. Cursus Theol. Moral. Tract. XVII. cap. 2, n. 118.

The moralists evidently forgot the words of the prophet—"This is the curse, . . . and it shall come to the house of the thief and to the house of him that sweareth falsely by my name; and it shall remain in the midst of his house, and shall consume it with the timbers thereof and the stones thereof."—Zacharias V. 3, 4.

[6] S. Th. Aquin. Summæ Sec. Sec. Q. LXIX. Art. 1, Q. LXXXIX. Art. viii. ad 4.—Coerced promissory oaths, we are told, are not binding in the forum of the Church, but are binding in the forum of God (Astesani Summæ de Casibus Lib. I. Tit. xviii. Art. 7, Q. 4)—which presumably means that the oath-taker need not perform his promise, but must redeem the sin.

benefit is only venial.[1] It would be difficult perhaps to dispute these propositions, for they are true in special cases, but there is in them the germ of laxity in practice. In the application of such rules everything depends upon the interpretation. How severe this might be is seen in the case of Marie du Canech of Cambrai, who, because she maintained that when under oath she was not bound to tell the truth to the prejudice of her honor, was prosecuted, in 1403, for heresy by the bishop and inquisitor, and was condemned in a heavy fine and nine years' abstention from trade.[2]

The teaching as to the seal of confession bore fruit; when once admitted, such a lesson could not be confined to its original purpose, and it was inevitably extended. By the time of Azpilcueta, as we have seen, in occult compensation, the thief when suspected could swear to ignorance, with the mental reservation that no theft had been committed. Yet the admission of such practices won its way slowly, and its chief advocates were Jesuits. Cardinal Toletus, while holding that a criminal judicially examined must tell the truth, yet says that extrajudicially he can use mental reservation, "I did not do it," reserving in his mind "in prison;" useful lies are only venial.[3] The Augustinian Pedro de Aragon holds it to be a mortal sin to utter a false oath, legally exacted, to confirm either truth or falsehood; used extrajudicially to confirm the truth it is venial; equivocating and misleading oaths used judicially are mortal, extrajudicially are innocent. Lying is a mortal sin under all circumstances, even to save life, but a criminal unjustly interrogated can use amphibology.[4] Jacobo de'Graffi is much more rigid; he quotes St. Jerome, and does not hint at any evasion of truth as allowable.[5] Escobar gives, as the current practice of the Jesuits, the rule that any one for just cause (and just cause was held to be any notable advantage) can, without committing perjury or mendacity, use when he swears words not ambiguous, but giving them in his oath a meaning different from that in his mind, and he draws the nice distinction that this is not to deceive, but to hide the truth. Thus you can con-

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[1] S. Th. Aquin. Summæ Q. CX. Art. ii. *in corp.;* Art. iii. ad 4; Art. iv. ad 5.

[2] Archives Administratives de Reims, III. 639 sqq.

[3] Toleti Instruct. Sacerd. Lib. V. cap. 54, 58.

[4] Pet. de Aragon de Justitia et Jure Q. LXXXIX. Art. vii.; Q. LXIX. Art. ii.

[5] Jac. a Graffiis Decis. Aur. Cas. Conscient. P. II. Lib. ii. cap. 3.

ceal property from your creditor, and when examined by the judge can swear that you have concealed nothing, reserving in your mind "that I am bound to disclose." An adulterous wife accused by her husband can deny the adultery, reserving "on such a day." If you come from a place falsely supposed to be infected with pestilence, you can swear that you do not come from there, reserving "as an infected place." It is not a mortal sin to use these equivocations, even without cause, but it must not be done to the injury of a third party or when judicially interrogated[1]—the weight of which limitations is to be gathered from the previous permission to defraud creditors. It will be seen by these examples how strong was the invitation to yield to the temptation of false-swearing whenever interest of any kind prompted, nor can we wonder that the people thus trained to perjury should not always observe the cunning subterfuges suggested by the moralists. The Salamanca theologians inform us that perjury and false oaths are so universal that they are the commonest incident met with in confessions and the most destructive to the soul.[2]

All probabilists were not thus lax. Marchant expresses his horror at the use of extrajudicial amphibology and mental reservation employed to the injury of another, as in contracts, sales and other transactions; it is a mortal sin and, as a common sewer of frauds and deceptions, abhorrent to all Christians, it is the root of many other mortal sins. Yet even Marchant admits that these deceits can be used by a criminal illegitimately interrogated in court, and it was illegitimate to examine a man against whom there was not at least what the lawyers called semi-proof[3]—leading to the somewhat comic conclusion that his duty to tell the truth depended on the amount of evidence against him. Caramuel is even more outspoken, and condemns the whole system with an energy that Pascal himself could not exceed. Mental reservations deprive human society of all security; they open the way to all lies and perjuries; the wickedness of mendacity is not changed by calling it mental reservation, it is merely enveloping poison in sugar and disguising vice as virtue.[1]

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[1] Escobar Theol. Moral. Tract. I. n. 27. My edition of Escobar is that of Lyons, 1644. There had previously been thirty-seven Spanish editions.—De Backer, II. 175.

[2] Salmanticens. Cursus Theol. Moral. Tract. XVII. cap. ii. n. 148.

[3] Marchant Tribunal. Animar. Tom. II. Tract. III. Tit. ii. Q. 5.

[4] Caramuelis Theol. Fundam. n. 474, 1805. "Est mihi innata aversio contra

It was not likely that so demoralizing a theory as that of mental reservation would escape the animadversion of the Gallican rigorists. It was repeatedly repudiated and denounced, but it eluded the condemnation of Alexander VIII. in his decrees of 1665 and 1666. At length Innocent XI. undertook its suppression, and in his decree of 1679 are embraced five propositions, covering the whole subject and showing the extent of the laxity which had been developed, extending even to the doctrine that it is allowable to bring a false accusation against any one if, by doing so, honor or property can be preserved.[1] As usual, as soon as the Holy See had condemned any laxity, the moralists devised means to elude the decision as far as possible. It was admitted that the *restrictio pure mentalis*, or absolute reservation of something not uttered which reversed the meaning of an oath, was no longer licit, but it was argued that the papal decree did not prohibit the *restrictio non pure mentalis*, when the reservation is not wholly mental. The two however in practice run so closely together that differentiation is difficult, though the theologians argue that in the former you deceive the other party and in

restrictiones mentales. . . . Tollunt humanam societatem et securitatem et tanquam pestiferæ damnandæ sunt. Quoniam semel admissæ aperiunt omni mendacio, omni perjurio viam; et tota differentia in eo erit ut quod heri vocabatur mendacium naturam et malitiam non mutet sed nomen, ita ut hodie jubeatur restrictio mentalis nominari: quod est virus condere saccharo et scelus specie virtutis colorare."

[1] Innoc. PP. XI.—Prop. 25. Cum causa licitum est jurare sine animo jurandi.

Prop. 26. Si quis vel solus vel coram aliis, sive interrogatus sive propria sponte, sive recreationis causa, sive quocunque alio fine, juret se non fecisse aliquid quod revera fecit, intelligendo inter se aliquid aliud quod non fecit, vel aliam viam ab ea in qua fecit, vel quodvis aliud additum verum, revera non mentitur nec est perjurus.

Prop. 27. Causa justa utendi his amphibologiis est quoties est necessarium aut utile est ad salutem corporis, honorem, res familiares tuendas vel ad quemlibet alium virtutis actum, ita ut veritatis occultatio censeatur tunc expediens et studiosa.

Prop. 28 is directed against the use of reservations in taking the customary oath of office containing the clause that nothing has been paid for it. At that period the sale of offices was customary.

Prop. 44. Probabile est non peccare mortaliter qui imponit falsum crimen alicui ut suam justitiam et honorem defendat. Et si hoc non sit probabile vix ulla erit opinio probabilis in theologia.

the latter you allow him to deceive himself.[1] How nice were the distinctions of the moralists is visible in the statement of Cardenas, quoted approvingly by La Croix, that a man who is asked whether a robber had passed can put his hand in his sleeve or his foot on a stone and say he has not passed here, meaning through the sleeve or on the stone: this is *non pure mentalis*, and if the questioner does not observe the action he has only himself to thank.[2] It is admitted that there is sin in doing this without a just cause, but a just cause is defined to be anything that is judged useful for the advantage or preservation of the body, or of honor, or of property, or, as Liguori defines it, any benefit, even trivial, whether spiritual or temporal.[3] Liguori adds that it is a debated question whether a man can swear to what is false, adding under his breath what is true; many argue that he can, for it is only *per accidens* that the other party cannot hear; but Liguori sides with the Salamanca theologians that this is not permissible if the other cannot hear at all, but it is allowable if he can hear something without catching the sense.[4] This apparently is a *restrictio non pure mentalis*, and the latitude attached to the term may be guessed from some of the illustrations given by Liguori. A poor man who has secreted property for his support can swear before a judge that he has nothing; an heir secretes property not liable for the debts of the estate; when examined in court he can swear that he has secreted nothing. A man who has paid a debt can swear that he has borrowed nothing. A man who has been compelled to marry can deny to the judge that he has contracted marriage, with the reservation "freely as it ought to be." One who has promised marriage but cannot be held to it can declare in court that he has made no promise, reserving "that I can be held to." A man can avoid quarantine when he comes from a place falsely believed to be

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[1] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 3, Q. 1.—Viva Comment. in Prop. 26, 27, Innoc. XI.—Liguori Istruzione Pratica cap. V. n. 15.—Even before the decree of Alexander VII. Laymann had declared the *restrictio pure mentalis* to be not allowable, while amphibologies, even if they deceive, are not lies (Theol. Moral. Lib. IV. Tract. iii. cap. 13, n. 5–7).

[2] La Croix Theol. Moral. Lib. III. P. i. n. 288. Peter Dens however (Theologia T. IV. n. 244) thinks that this is going too far.

[3] Salmanticens. Theol. Moral. Tract. XVII. cap. ii. n. 107, 109.—S. Alph. de Ligorio, Theol. Moral. Lib. III. n. 151–2.

[4] S. Alph. de Ligorio Theol. Moral. Lib. III. n. 168.—Salmanticens. *ubi sup.* n. 110–17.

infected by swearing that he does not come thence; some authorities hold that he can do so even if the place be infected, provided he feels sure that he does not bring the infection, but Liguori does not fully assent to this. The denial of her sin by an adulterous wife is generally admitted. The question whether a merchant, to deceive a buyer, can swear to a false cost of his goods, reserving "with other goods" is disputed, and Liguori holds the negative, but admits that he can do so by adding freight, expenses, etc.[1] In all this Liguori only voices the opinion of the whole probabilist school, and of course his views are accepted by the theologians of the present day.[2]

The position of the rigorist school on this question was not wholly uniform. The Gallican assembly of 1700 condemned all the doctrines of the casuists as to equivocation, etc., as contrary to Scripture, scandalous, pernicious, erroneous, and opening the way to frauds and perjuries,[3] but the abuse seems to have become so thoroughly interwoven with the practice of the confessional that even the anti-probabilist theologians felt compelled to admit the distinction between the *restrictio pure mentalis* and *non pure mentalis*, and to allow the use of the latter.[4]

With regard to simple lying, even Habert admits the propriety of the *mendacium officiosum* where it is requisite for some sufficient purpose, such as the saving of life.[5] More rigorous was the Dominican, Giuseppe Antonio Orsi (afterwards a cardinal), who, in 1727,

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[1] S. Alph. de Ligorio Theol. Moral. Lib. III. n. 158, 159, 164. For a fuller list of examples see Salmanticens. Tract. XVII. cap. ii. n. 139–45. Yet Laymann denies to the adulterous wife the right to use mental restrictions (Theol. Moral. Lib. IV. Tract. iii. cap. 13, n. 6–7), though this is admitted by the older schoolmen (Astesani Summæ Lib. I. Tit. xviii. Art. 7 Q. 2; Summa Angel. s. v. *Juramentum*, in corp.).

[2] Varceno Comp. Theol. Moral. Tract. VI. cap. ii. Art. 3 § 1.—Gury Casus Conscient. I. 416–18.—Kenrick, however (Theol. Moral. Tract. III. n. 199–203), is a little more reserved.

One of Gury's cases is not without a trace of caution. A man, interrogated by a custom-house officer, can deny the possession of dutiable goods, with the reservation "that I have to declare voluntarily," but clerics are advised not to avail themselves of this in view of scandal in case of detection.

[3] Habert Theol. Moral. *De Virtute Religionis* cap. VI. § 5, Q. 5.

[4] Wigandt Trib. Confessar. Tract. X. Exam. iv. n. 60.—Th. ex Charmes Theol. Moral. *De Peccatis* Diss. III. cap. iii. Q. 1.—Piselli Theol. Moral. Summæ P. I. Tract. iv. cap. 2 § 3; Tract. x. cap. 2.

[5] Habert Theol. Moral. *De Conscientia* cap. II. Q. 5.

printed a quarto volume to refute the teaching of the Jesuit Carlambrogio Cattaneo (died in 1705), a celebrated preacher, whose *Lezioni Sacre* were posthumously issued in 1719, and were extensively reprinted and translated during the rest of the century. Cattaneo not only advocated mental reservation, but taught that when there is no time to invent or recall such formulas and amphibologies an emphatic "no" is not a lie; if the questioner is deceived it is only part of the just penalty deserved by his attempt to take advantage of the veracity of others, and if the licence is abused by improper use, this is a danger existing in all morals. Orsi is consistent in condemning all mendacity, even to the "not at home" of him who desires to prevent intrusion, and he does not fail to pay his respects to the practical mental reservation of the Jesuit missionaries in China who permitted their converts to perform the prescribed rites of the national worship, provided they avoided idolatry by directing their attention elsewhere. Orsi's book gave rise to an active controversy, in which the Jesuits Diani, Saccheri, Richelmi, Rota, Cosmo and others rushed to the defence of the teachings of Cattaneo.[1]

Probabilism and the whole structure of Moral Theology afford irrefragable evidence of the manner in which, in Catholic belief, the means have supplanted the end. According to the theory of the sacrament of penitence, it is the instrument provided by God for the elevation of the soul to Him, through which it is purified of sin, is strengthened against temptation and is rendered fit for heaven. In practice the sacrament becomes the ultimate object; the sinner is taught how to secure it with the least sacrifice of worldly enjoyment; the question is not how to earn the grace of God, but how to win it at the smallest cost; how to sin without sinning; how to escape hell without deserving heaven—to adopt, as Gioberti says, a line of conduct towards God which a good son would scruple to adopt with his father.[2] It is to this that the efforts of the keenest minds in the Church have been directed for the last three centuries through the subtle extension and application of the theories of material sin, inculpable ignorance, insufficient promulgation of law and all the other refine-

[1] Orsi Dissertazione contro l'Uso materiale delle Parole, pp. 4–7, 170, 226.—De Backer, II. 109.

[2] Gioberti, Il Gesuita moderno, T. I. cap. vii. (Losanna, 1846, p. 463).

ments of reflex probabilism. The aim has not been to strengthen the shoulders to bear the yoke of Christ, but to lighten it; not to guide fainting souls through the steep and narrow way, but to widen it till the ascent to heaven shall be as easy as the descent to hell. With more or less earnestness the Church had endeavored from the beginning to enforce on recalcitrant human nature the precepts of Christ. It had signally failed, and now it hailed with manifest relief the argument that to do so would be, as Moya says, quoted approvingly by La Croix, to risk the total perdition of human souls.[1] The theologians thus showed themselves wiser than God, when they discovered that to respect his commands meant damnation and to elude them meant salvation.

In considering the practical results on morals of the modern probabilistic theology one may be pardoned for assuming on *a priori* grounds that the effects cannot but be deplorable of a system which looks rather to excuse sin than to punish it and to amend the sinner. We are not wholly destitute of evidence to this effect, for, though there may be exaggeration in the assertions of the anti-probabilists during the struggle of the eighteenth century, there must have been a foundation for them in fact. Otherwise nine Spanish bishops would scarce have ventured to state, in a memorial presented, in 1717, to Clement XI. against the *Consultas Morales* of the Capuchin Martín de Torricella, that probabilism had undermined all morality and all obedience to divine, municipal and canon law, the decrees of the popes and even the prescriptions of the council of Trent; that everything was argued away and that multitudes lived disorderly lives under the appeal to probabilism, for so-called probable opinions could be had to quiet the conscience for whatever men desired to do.[2] This is re-echoed, in 1727, by a writer in Rome, who complains that through the use of probable opinions there resulted the most deplorable disorder, all laws are arbitrary and men live without reason or law.[3] Habert assumes that, if the gospel and patristic teachings were enforced, the greater portion of penitents would be dismissed without absolution, and that probabilism has been invented to soothe their consciences so that greedy confessors can retain their favor and enjoy

[1] La Croix Theol. Moral. Lib. I. n. 488.
[2] Döllinger u. Reusch, I. 319.
[3] Istruzione per li novelli Confessori I. 34 (Roma, 1727).

their offerings.[1] Concina, of course, is vehement in his denunciations; he cannot find words strong enough to describe the corruption of morals caused by probabilism and its undermining the foundations of all Christian rules, and he wonders at the audacity of those who stigmatize his side as rigorists and tutiorists at a time when licentiousness pervades the cloisters, the hermitages, the sanctuaries, when evil living triumphs almost everywhere, and when even heretics are scandalized by the sacrilegious profanation of the sacraments of penance and of the altar.[2]

All this, of course, is *ex parte* testimony, and due allowance must be made for the warmth of feeling of those engaged in controversy. Yet the defence of probabilism is merely confession and avoidance—it is the least of two evils. We have seen La Croix argue that the enforcement of the gospel precepts would send souls to hell, and Arsdekin urges in a similar strain that to attempt the application of rigor would be more than human weakness could endure; thus formal sins would be multiplied infinitely, for men would be forced to commit sins that otherwise would not be committed—that is to say that the sins they commit would be formal and not material. With blind disregard of the comparison he invites, he adds that it is this rigor which has led to the heresies of the Manicheans, Donatists, Wickliffites, Lutherans, Calvinists and Jansenists.[3] It is evident that the ruling minds among the theologians had abandoned the task of rendering men more virtuous under the ecclesiastical system and contented themselves with the easier duty of devising means for them to obtain absolution without abandoning sin. Subjective morality had superseded objective. It was a deplorable confession of the failure of the Church in the main object of its existence. What it had been unable to accomplish by rigor it was now attempting by "benignity;" having abandoned the task of suppressing evil, it was now endeavoring to disguise it.[4] If we may believe the Bishop of

[1] Habert Praxis Sacr. Pœnit. Tract. I. cap. iii. n. 1, 2.

[2] Concina, Theol. Christ. contracta Lib. II. Diss. ii.—Esplicazione di Quattro Paradosse, cap. ii. § 1, n. 4.

[3] Arsdekin Theol. Tripart. P. III. Tract. 1, cap. 1.

[4] Bishop Turchi of Parma was presumbly no Jansenist, as he was a papal chaplain, but it would be difficult to describe in more fervent language the demoralizing methods of probabilism and casuistry than he does in a pastoral letter of 1789—"Si volge e si rivolge da ogni parte il Vangelo per accomodar-

Saint-Pons, quoted approvingly by Liguori, both plans only served as an incentive to sin. He rejoices that the laxists had been discarded, but mourns that they had been succeeded by an excess of rigor which drives men to desperation, and he says that more excuse their evil lives through this rigorism than had formerly done so on pretext of laxism.[1] It is evident that the scheme of interposing the priest between man and his Creator is not an ethical success.

There may be a parallel and also a contrast drawn between the revolution which occurred in the twelfth and thirteenth centuries and that which we have traced through the seventeenth, eighteenth and nineteenth. In the former, all learning and intelligence were virtually on the side of the innovators; they triumphed with little opposition after Abelard was silenced, and their theories were coördinated into a system by Aquinas. In the latter, the conflict was much more prolonged and bitter, for acuteness and learning were ranged on either side. The conflict was one of supreme importance, for the new science of Moral Theology was based on probabilism, and its existence was at stake. Victory seemed to perch alternately on the banners of the opposing hosts; secular questions intervened which complicated the struggle. Liguori was the Aquinas of the new revolution, but his triumph was postponed until long after his death, and the success of the cause which he represented is partly attributable to the necessity in which the Church found itself of devising some means by which its confessors could cut a short path through the quagmire of casuistry.

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lo alle nostre passioni: si trovan ragioni per dubitare nella pratica di tutti i precetti; si stancano i casisti con infinite consulte; e non si riesce che ad imbrogliare le regole de' costumi, e faticar molto per non trovare la verità nell' atto stesso che si finge pur di cercarla. . . . . Entra molte volte anche ne' confessori la brama di piacere e la paura di dispiacere: allora tutto è perduto; e tutti si adunano in un sol punto che è quello d' ingannare e di voler essere ingannati.—Lettera Pastorale di Fr. Adeod. Turchi, Vescovo di Parma, Roma, 1789, p. 19.

A homily addressed to parish priests by Giorgio, Bishop of Ceneda (Venetiis, 1790) is almost equally vigorous.

[1] Liguori, Apologia della Teologia Morale § II. n. 45.

On the other hand Cardinal Gerdil (Convitto Ecclesiastico) warns the confessor against the slightest compromise with anything affecting the sanctity of morals and reminds him of the malediction pronounced against him who calls evil good and good evil.

CHAPTER XXII.

INFLUENCE OF CONFESSION.

It only remains for us to consider, in so far as attainable evidence admits, what has been and is the influence on the Church and its members exercised by the system of confession and absolution.

I have already alluded (p. 106) to the salutary effect of the Penitentials, in spite of their rude and contradictory elements, in civilizing the barbarian tribes whom it was the mission of the Church to reduce to order. There was a distinct gain for morality in the attempt to enforce in practice the gospel precept that sin may be committed in the heart as well as by the hand, and that he who desires to commit a crime and is unable to execute it is liable to one-half the penance due for an accomplished act.[1] As civilization commenced to dawn again, the Church sought to regulate the relations of man with his fellows by a higher law than that of the crude and often unjust customs of the early middle ages. Whatever might be its self-seeking, it at least kept before mankind a loftier standard of conduct than the prescriptions of secular legislation, and it inculcated, in theory at least, the scriptural injunctions of peace and good-will. As the sole custodian of morals, its precepts for ages were the only influence leading the vast majority of Christians to a conception of something truer and better than the law of the strongest. The sedulous care with which it sought to regulate human conduct finds expression in the collection of canons relating to the duties of laymen made by Ivo of Chartres.[2]

Much of all this became obsolete with the rise of the schoolmen in the twelfth century, who worked so complete a change in doctrine and practice. Their labors in exploring all the recesses of human virtues and vices, in balancing motives and consequences, and in drawing the most subtile distinctions were of service, even though

[1] Pœnitent. Vinniai § 3.—Pœnitent. Columbani A. cap. ii.—Theodori Pœnitent. Lib. I. cap. ii. §§ 21–22 (Wasserschleben pp. 109, 186, 353).

[2] Ivon. Carnotens. Decreti Lib. XVI.

the standards employed were often arbitrary and artificial. They promoted ethical development and accustomed thinking men to apply more delicate tests to conduct, even though at the same time they furnished dialectics by which the inconvenient rigor of Christ's teachings could be reconciled with the necessities of human nature. The close examination made by the schoolmen of the ethical value of actions has borne fruit in establishing principles and habits of thought which are the common heritage of the race to-day.

When once the power of the keys had been established and the necessity of sacramental absolution had been universally admitted, the practice of regular stated confession might well, on *a priori* grounds, be welcomed as a most efficient instrument in inculcating and enforcing the precepts of morality. It subjected every human being of the age of reason to the tribunal of God, where not only his external acts but his most secret thoughts were to be laid bare and judged, and pardon was promised only on condition of repentance and amendment, under the tremendous alternatives of eternal beatitude or torment. Under the promise of ineffable reward and the threat of unspeakable punishment, the strongest pressure was brought to bear on the sinner to correct the faults which he admitted in confession, and as a preliminary to this he was required to undergo the salutary self-discipline of scrutinizing his conscience, reviewing his acts, his desires and his passions, laying them all at the feet of a ghostly counsellor, who, as a loving father rather than a rigid judge, should melt his heart in contrition and strengthen him with wise reproof and friendly warning before conferring on him the absolution which, by removing the burden of his sins, should enable him to commence a new life.[1]

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[1] The preliminary self-examination of the penitent is not prescribed by the Lateran canon, but the council of Trent orders it as an essential part of confession (Sess. XIV. De Pœnitent. c. 5). It is almost impossible to enforce it, however, and Marchant says (Trib. Animar. T. I. Tract. II. Tit. 7, Q. 2) that when it has been insufficiently performed it is better not to send the penitent away for a further review of his conscience, for though he will promise to return he will not do so, confession is rendered odious and the penitent dies in his sins. It is true that St. Charles Borromeo orders all confessors to do this (Instruct. Confessar. pp. 54–55), but Liguori agrees with Marchant (Theol. Moral. Lib. VI. n. 607).

In the manuals for the people self-examination is inculcated as a necessary preparation for confession, and a list of the most prevalent sins is given as an

It was an enticing day-dream, this gathering together of all the sins and sorrows of Christendom in the arms of the holy mother Church, who should thus fashion her children's lives in virtue, should eradicate the evil, should develop the good, and should render vital the almost forgotten precepts of the Evangel, to the realization of the Kingdom of God in the bosom of forlorn and wayward humanity. Had such a scheme been practically possible the Church had an opportunity for accomplishing it which has never before or since been the lot of any human organization, for it had secured the control of the minds and souls of its subjects to a degree which no other body has enjoyed. It was supreme; in the moral and spiritual world it had no rival, and it was the sole arbiter in all that concerns the inner life and the destiny of the soul. It had the power, and, according as it should wield that power, would men advance in righteousness or continue to fester in sin. The Europe of the middle ages and the faithful of Latin Christianity to-day are what the teaching of the confessional has made them. The Church claimed and exercised absolute control over them, and is responsible for the outcome.

To realize the day-dream unfortunately required a legion of angels to serve as confessors, and it is needless to recapitulate here what manner of men the Church furnished as the representatives of God in the tribunals of conscience. The greater the power the greater its liability to abuse; in the hands of worldly or indolent men who looked upon it as a source of gain or as a duty to be performed perfunctorily, the confessional could not become a source of spiritual elevation to the sinner, and he would necessarily come to regard it as a matter of mere routine; taught to look upon absolution as the one essential to salvation, if he could secure that it mattered little to him how he gained it; the doctors might enunciate that, without contrition and the resolute intention to sin no more, confession was invalid and the sacrament a sacrilege, but the people, even if such theories penetrated down to them, paid little heed so long as the

assistance (Joseph Faà di Bruno, Catholic Belief, pp. 302–5). A more elaborate aid was devised by Father Leuterbreuver in his little book "La Confession coupée, ou la méthode facile pour se préparer aux Confessions" (Paris, 1751), consisting of an elaborate list of all possible sins, ingeniously arranged so that each one occupies a separate slip, which can be turned down as the penitent goes over it, and he is thus supplied with a ready reminder of what he has to confess.

parish priest or his vicar was willing to mutter the magic formula over them and admit them to the paschal communion.

Even under the Penitentials there was an evil influence at work in the system of redemptions for penance, which, however, profitable to the priest, caused a distinct lowering of the standard of morality, at least among the Gallo-Roman population who were still subject to the Roman or Wisigothic codes, and in secular justice were not accustomed to the *wer-gild*, by which, among the Barbarians, the penalty of crime could be compounded for money. We have seen to how late a period the system of redemptions flourished, with its cognate abuse of pecuniary penances, and to what an extent it was exploited, not only by the priesthood at large, but by the Holy See in its tariffs for absolution, and how even to the present day compositions have been allowed for restitution, all of which cannot but have exercised a most demoralizing influence in familiarizing the minds of men with the idea that salvation was a sort of merchandise to be bought and sold, and that sin was a luxury to be safely indulged in by those who could afford to pay for pardon.

Whatever benefits accrued from the enforcement of confession as a stated duty were fully neutralized by its attendant evils. The sinner who was led by throes of conscience to make voluntary confession would naturally unbosom himself completely and unreservedly; as he was impelled to it by repentance there was reasonable hope that it might be followed by amendment. When he was coerced to it at fixed periods, it became a duty to be performed perfunctorily, with as little cost of self-humiliation and of penance as possible. Formalism and hypocrisy replaced spiritual earnestness, the conscience was dulled and trained to self-deception, and the ethical standard was abased. But half a century after the enactment of the Lateran canon, and before the enthusiasm of the Franciscan order had exhausted itself, the instructions of St. Bonaventura to his friars show how speedily, even among them, the penitent had learned all the arts of concealing and palliating and excusing his sins and how all manner of subterfuges were resorted to in order to evade the consequences.[1] The theory on which the confessional was based was already lost in practice. Bishop Pelayo, whose experience as papal penitentiary under John XXII. entitles him to speak, seems to

[1] S. Bonaventuræ de Puritate Conscientiæ Cap. 1.

regard this as a special characteristic of the religious orders and of prelates and learned doctors; laymen and secular clerks may make honest confessions, but those of the former classes are almost universally fictitious and hypocritical, accusing themselves merely in general terms and of venial sins, without the slightest intention of amendment. Possibly this may be explained by the more frequent confession imposed on the religious orders, which thus, in place of being a stimulus to virtue, became merely a formal routine in which hypocrisy and sacrilege were added to the other sins.[1]

With the development of the system under the assiduous labors of the schoolmen these evils could only increase. We have seen how they explored every act of the inner and external life and sought to classify every aberration with the minutest care, and how the confessor was expected to weigh and distinguish the comparative morality of the most complicated transactions and regulate every detail of his penitent's existence. Such a duty was obviously too arduous for the acutest intellects, and the ordinary pastor, in a crowded Easter confessional, could only take refuge in a perfunctory routine. Moreover, the labors of the schools in the classification of sins necessarily were attended with an unfortunate result in lowering the moral standard through the clumsy and illogical division into mortals and venials. It was not only that the interminable wrangling of the doctors, as to which class special offences belonged, tended to confuse all notions of morality, but it became necessary to exclude from the awful category of mortals much that is incompatible with a well-ordered life, and as venials could be washed away with a drop

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[1] Alv. Pelagii de Planctu Ecclesiæ Lib. II. Art. 78.—"In nullo peccato hodie quidem religiosi tantum credo quod Deum offendunt quantum in fictis et hypocritalibus confessionibus. Vix enim aut rarissime aliquis talium confitetur nisi per verba generalia, vix unquam aliquod grave specificant. Quod dicunt una die dicunt et altera, acsi in omni die æqualiter offendant. Vix unquam habent intentionem cessandi nec vitam mutandi. De peccatis quæ confitentur, confitentur quædam venialia . . . sed rarissime confitentur de pecunia, de inobedientia, de suspecta familiaritate etc. . . . Unde veraciter sicut didici inter fratres et in officio pœnitentiariæ domini Papæ in quo sum, purius et humilius et veracius incomparabiliter confitentur maximi peccatores sæculares et clerici quam religiosi communiter hypocritaliter confitentes. Quanto autem magis sunt in ordine litterati aliqui magistri et lectores et baccalaurei et prælati tanto in confessionibus sunt magis cæci et hypocritaliter confitentur."

of holy water or an episcopal benediction, they became too trivial to be worth confessing, whence sprang the natural inference that they matter little or nothing. Yet the constantly growing tendency to extend the list of mortal sins, as shown in the laborious lists of interrogatories drawn up for the guidance of confessors from the fourteenth to the sixteenth century, so far from producing ethical improvement, was an absolute injury. Although they nominally elevated the standard and did a service in keeping the ideal of Christ before the eyes of a worldly and corrupt generation, they were hopelessly incompatible with the system in which the Church assumed control of human salvation, and pretended—for it could do no more—to apply these impossible tests to human conduct in the confessional. When it told a merchant that to follow his vocation for the purpose of accumulating money was a mortal sin, or a courtier that to aspire to office for advantage or honor was the same, it ran counter to all the instincts of human nature. In theory it could not abandon these sublimated principles, but in practice it was obliged to do so. Nominally it required the penitent to be contrite for acts which no man involved in the struggle for existence regarded as sins, and it exacted a promise from him, explicitly or implicitly, to abandon them as a condition precedent to absolution, yet he obtained absolution without the slightest repentance for such acts or intention to forego them. The priest who granted the absolution knew this as well as the penitent, and the sacrament, which in theory was a means of amendment and salvation, became a mere traffic in deceit and hypocrisy. The priest satisfied himself with the knowledge that if the penitent was not sincere the sacrament was invalid; the penitent satisfied himself with the fact that he had obtained absolution, and did not trouble himself to inquire too closely into its validity. The forms of the Church were observed and its authority recognized, but both parties to the transaction were distinctly injured in morals by this juggling with what they were taught to regard as holy.

Matters did not improve with time. If, in the early thirteenth century, William of Paris asserts that the majority of absolutions are illusory through lack of contrition in the penitent,[1] towards the close of the fifteenth Robert, Bishop of Aquino, tells us that many

[1] Guillel. Parisiens. de Sacr. Pœnit. c. 6.

come to the confessional without devotion or compunction, and without taking the trouble to recall their sins, while the morals of the people, who for two centuries and a half had been assiduously trained in the routine of confession, were indescribably corrupt. Boys and girls below the age of puberty indulged in lasciviousness, men openly professed that fornication was no sin, and through unchastity the greater part of both sexes were plunged into everlasting hell.[1] In the early sixteenth century Cardinal Caietano tells us that a majority of confessors and penitents did not trouble themselves with such niceties as making full and detailed confessions, while nothing was more common than for the penitent to declare his intention of not abstaining in future.[2] Both parties evidently regarded it as a mere formality. This is confirmed by Rosemond, who says that for the most part confessions are imperfect, through the blindness and malice of the confessors and the negligence and lack of disposition of the penitents, whence, as experience shows, wickedness pervades all classes and conditions of men and grows daily worse, to the great damage of souls.[3] A few years later Bishop Guevara remarks that he sees few men return from Italy who are not both absolved and dissolute, which he charitably attributes to the fact that Italy is peopled with sinners.[4]

The council of Trent worked no improvement. Domingo Soto informs us that most confessors and penitents are satisfied if a full confession is made, and take no thought of warning or amendment.[5] St. Charles Borromeo ascribes to the fault of the confessor the fact that universally men go to confession year after year without amendment; confession is merely a matter of custom and formality, while absolution is granted negligently and inconsiderately to the great ruin of souls.[6] A memorial of projected reforms at the same period points out the abuses of this careless administration of absolution, which

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[1] Rob. Episc. Aquinat. Opus Quadragesimale Serm. XXVIII. cap. 1; XXIX. cap. 1; XXX. cap. 1.

[2] Caietani Opusc. Tract. V. De Confessione Q. 3, 5.

[3] Godescalci Rosemondi Confessionale Procœm (Antverp. 1519).

[4] A. de Guevara, Epistolas Familiares No. XVIII. (Ochoa, Epistolario Español, I. 103).

[5] Dom. Soto in IV. Sentt. Dist. XVIII. Q. ii. Art. 4.

[6] S. Caroli Borrom. Instructiones Prædic. et Confessar. Brixiæ, 1676, pp. 48, 58, 60.

thus, in place of reforming the sinner, merely blunts his conscience.[1] Cardinal Bellarmine is even more outspoken. Crowds of the faithful are hurried to hell through the negligence of their rulers, spiritual and temporal. Many confessors, as though by their own private authority, absolve all who come to them, whether contrite or not, whether confessing in detail or in confused generalities, whether prepared or not to render satisfaction. Thus the people are corrupted and the way to penitence is closed to them, nor would there be to-day such facility in sinning if there were not such ease of absolution. Men come laden with sins, into which they have fallen a thousand times; they come without a sign of sorrow, and we, heedless judges, lay our hand on all and say to all "I absolve thee, go in peace."[2] Corella bitterly deplores the profanation of the sanctuary; of proper disposition there is little or none; the examination of the conscience is perfunctory; sins are concealed and excused; the necessary circumstances are suppressed; the sorrow for offending God is slight; resolutions of amendment are very weak, as is seen in those who wallow in sin for years; no restitution is made of honor and reputation or of ill-gotten gains; hatreds are not laid aside; illicit relations are maintained. How many, he exclaims, O God, approach thy altar with unclean hearts! How many, like Judas, sacrilegiously eat the bread of the angels! Sin has many followers while virtue is deserted; the path of hell is crowded and the way to heaven is abandoned.[3] There could scarce be a more complete condemnation

[1] Cod. Bibl. Ambros. Mediolan G. 22 (Döllinger, Beiträge zur politischen, Kirchlichen u. Cultur-Geschichte, III. 241).

[2] Bellarmini de Gemitu Columbæ Lib. III. cap. 7; Concio VIII. De Dominica 4 Adventus.—"Illi postremo se ministros et dispensatores non agnoscunt, qui quasi non essent Domino rationem reddituri, summa facilitate omnibus manum imponunt, et tam contritos quam non contritos, tam plene ac perfecte confitentes quam peccata sua quadam confusa generalitate involventes, tam satisfacere paratos quam non paratos, quasi propria potestate et auctoritate absolvunt. Isti sua imperitia et superbia corrumpunt populos et eis veræ pœnitentiæ viam præcludunt. Nec enim esset hodie tanta facilitas peccandi si non esset tanta facilitas absolvendi. Veniunt homines onusti peccatis et qui millies in eisdem ceciderunt, et veniunt sæpe sine ullo signo doloris . . . et nos judices inconsiderati, dispensatores, omnibus manum imponimus, omnibus dicimus *ego te absolvo, vade in pace*."

Already in the fifteenth century Dr. Weigel had complained that the facility of absolution was a direct incentive to sin.—Claviculæ Indulgentialis cap. xix.

[3] Corella Praxis Confession. P. II. Perorat. n. 5–6.

passed upon the whole system and its deplorable results. The Church had undertaken a task beyond human power to perform, and the human imperfection on which it should have reckoned converted the means which it had provided for salvation into an instrumentality for blunting consciences and diffusing corruption. The practical working of this was seen when the Spanish Inquisition endeavored to eradicate the prevalent popular belief that fornication is not sinful. In the trials there are frequent reports of the conversations in which the accused gave utterance to the obnoxious opinion and his reasons for it. Among these it is not uncommon to find the argument that the priests thought nothing of it when it was confessed, and absolved for it as though it was venial.[1] This was the inevitable result of the control of the human conscience assumed by the Church, for it becomes responsible for the sins which it does not punish, and men shield themselves behind it; the believer is relieved from wholesome responsibility and casts on it the burden of his own sins.

St. Charles Borromeo and Bellarmine vainly pointed out the evils of too facile absolution. The tendency towards granting it indiscriminately grew ever stronger. Gobat observes that it seems very well to say, "Come back in six days, and meanwhile strive manfully," but scarce one confessor in a hundred tries it, and of those who do probably all find little or no benefit from it.[2] We have seen how earnestly the confessor is warned not to drive away the penitent by harshness,[3] and the arguments of Salvatori to sustain this practice show the fatal dilemma involved by the system which teaches that priestly absolution is essential for salvation.[4] If refused, it drives the sinner to despair and renders him obdurately worse than ever; if granted, it accustoms him to the belief that sin is of little account, since it is pardoned so readily. Even Liguori, with all his laxity, admits that the excessive indulgence of confessors has always been an injury to the Church.[5] Like many other human contrivances, the confessional has the disadvantage of failing when most needed.

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[1] MSS. Königl. Biblioth., der Univ. Halle, Yc. 20, T. I.

[2] Gobat Alphab. Confessar. n. 321–22.

[3] S. Alph. de Ligorio Praxis Confessar. Cap. I. § 2, n. 8, 11, 12. Cf. Müller, Catholic Priesthood, III. 176.

[4] Salvatori, Istruzione per i novelli Confessori P. II. § 1.

[5] S. Alph. de Ligorio Theol. Moral. Lib. VI n. 426.

Matters, of course, did not improve with the introduction and growth of probabilism, which emphasized the result of interposing the priest between man and his Creator, and replaced the conscience of the sinner with a series of arbitrary and artificial rules drawn up for the guidance of the confessor in the discharge of his functions. Thus sin becomes, not the transgression of a divine law impressed on the soul of man, but whatever the casuist may define to be such. Theft is in itself only venial, for *parvitas materiæ* may deprive it of its mortal character, and the thief asks, not whether he has broken the commandments, but whether the amount of his pilfering is sufficient to bring him within the definition of the casuist. The conscience is left untrained, for it is not recognized as a guide, and acts are weighed and measured by a purely artificial standard—or, if the conscience is referred to, it is sedulously blunted by the maxim that that only is sin which the actor recognizes to be sin. He who accepts all this, who submits himself blindly to his spiritual director, can square his account with God and escape the penalties of hell and purgatory with a few prayers and an indulgence: he who relies on his own conscience, who scrutinizes his acts subjectively and endeavors to ascertain for himself whether he has forfeited the grace of God is ridiculed for scrupulosity, and is denounced as the terror of the confessional and as a bore to be suppressed with the full exercise of confessorial power.[1]

It was in vain that the Rigorists protested against the growing laxity of practice and argued that absolution should never be granted unless there is evidence of contrition, or at least of true attrition

[1] At the same time, to judge from the frequent reference to them in the text-books, there must be quite a numerous class who are victims to "scrupulosity," caused by the injunction on the devotee to lay bare all his thoughts and actions that may savor of evil, in order that his soul may be cleansed to baptismal purity by the sacrament of penitence. With the timid and anxious this leads to the magnifying of venials into mortals and to an overmastering anxiety lest eternal perdition be incurred by the omission of some trifling observance not duly confessed and satisfied. That this, when carried to an extreme, may wreck body and soul is seen in the advice to such penitents that it is better sometimes to omit sins (though this renders confession invalid and sacrilegious) than to be thus devoured by perpetual anxiety, to be overwhelmed with sorrow and to incur peril of brain and senses.—Zenner Instruct. Prac. Confessar. § 71. —La Croix (Theol. Moral. Lib. I. n. 514) states that scrupulosity often reduces men to insanity and shortens life.

and an earnest desire for amendment. It was in vain that they denounced the custom of some confessors who absolve at once habitual sinners, making no effort to reform, and who pretend that they supply the defect by earnest exhortations, for belief in such absolution as valid is equivalent to belief in the power of the confessor to work miracles. It was in vain that they argued that, if a man passes his life in sin, except during the Easter solemnities, his repentance is a fiction based upon the indolence of the confessor, and its only effect is the profanation of the sacrament and the final impenitence of the sinner. It was in vain that they asserted that to assume that true conversions are made while the confessor is talking, and that the will of the sinner is subsequently changed, is to expose the mysteries of the faith to the derision of the infidel.[1] They were denounced as Jansenists and butchers of souls, whose rigidity deprived sinners of all hope and denied to them the benefit of the means provided by God for man's salvation. Thus laxity has triumphed, though occasional warning voices are raised that sin is stimulated by the prevailing facility of absolution. Ferraris quotes Bellarmine, and also the utterance of a synod which asserts that through this excessive ease of absolution an infinite number, not only of penitents but of priests, are lost.[2] The council of Urbino, in 1859, while warning confessors not to be too severe with the well-disposed, adds the saying of Bellarmine that there would not be to-day such facility of sinning if there were not such facility of absolution;[3] and the council of Colocz, in 1863, tells priests that they are responsible for the relapses and other evils arising from undue absolutions through which perish an infinite number both of priests and penitents.[4]

The mechanical theory of salvation by absolution bears its natural result in the effort of the penitent to obtain the sacrament, not only without repentance and amendment, but if necessary by cheating the confessor. This habit, denounced by Alvar Pelayo in the fourteenth century, is still rife. The Tridentine Catechism declares that a large portion of the faithful discharge the duty of confession in the most perfunctory manner, taking no care to remember their sins or to do

[1] Habert Praxis Sacr. Pœnit. Tract. III. Reg. 1, 2, 5.

[2] Ferraris Prompta Bibliotheca s. v. *Absolvere* Art. 2.

[3] C. Urbinatens. ann. 1859, P. I. Tit. viii. n. 49 (Collect. Lacensis VI. 20).

[4] C. Colocens. ann. 1863 Tit. III. c. vii. (Collect. Lacens. V. 652).

what is requisite to obtain the divine grace.[1] Not only a rigorist, like Béthune, Bishop of Verdun, warns confessors that the words and tears of penitents are mostly mendacious,[2] but a laxist like Salvatori deplores the fact that sinners not infrequently deceive the confessor by lying confessions, both in denying actual sins and in asserting the performance of penance which they have neglected. They even, he says, boast with their friends that they have cheated the confessor; all they want is the absolution and if they obtain this they are satisfied, not reflecting that it is the devil who has overreached them and that in place of being freed from their sins they have only added another and a more serious one.[3] Another device of those who desire absolution without abandoning their habitual sins is to suppress them in confession and substitute sins of their past lives which have already been confessed, while scandalous sinners, shortly before Easter, will seek some lax confessor who will absolve them easily and then at Easter go to the parish priest and confess some venial sins.[4] The moral influence of such views of sin and pardon is self-evident, and almost equally deplorable is the habit which we are told is prevalent, even among the pious, who in confession only think over their sins without sorrow or intention of amendment, while others go to confession through routine or to do what their companions do.[5] In view of the large proportion of imperfect and fictitious confessions the conclusion is natural that the system leads oftener to perdition than to salvation, for we are told that the confessor commits mortal sin if he grants absolution to one not properly disposed, since he thus exposes the penitent to the risk of damnation, through the false sense of security, when in reality he is not pardoned, and the greater licence of sinning through the facility of pardon, all leading to hardness of heart and final impenitence.[6]

A natural deduction from the eternal round of alternate sin and absolution is the view expressed in the Spanish *refran* attributed to the penitent inflicting the discipline on himself—*Esto es por la vaca*

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[1] Cat. Trident. *de Pœnit.* cap. xi.

[2] Epist. Pastoral. in Habert Praxis Sacr. Pœnit.—Clericati de Pœnit. Decis. XXIX. n. 12.

[3] Salvatori, Istruzione per i novelli Confessori P. I. § 4; P. II. § 2.

[4] Habert Praxis Sacr. Pœnit. Tract. III. Reg. 5; Tract. IV.

[5] Sala, Prontuario del Confessor, pp. 84–5 (Vich, 1866).

[6] Th. ex Charmes Theol. Univ. Diss. V. De Pœnit. cap. vi. Q. 5.

que hurté, y esto por la vaca que voy á hurtar—this blow is for the cow which I stole, and this one is for the cow which I am going to steal. This view, as Segneri informs us, is taken by many penitents who regard confession in the light of a tax laid by Christ on transgression, similar to the customs duty levied on importations; as, when a man pays the duty he is free to bring in the goods, so a sinner clears off his score by confession and is free to sin again, subject to the same tax.[1] This is by no means conducive to amendment, however comforting it may be to the habitual sinner, and though it is not accepted by the theologians, they accept a cognate and even more demoralizing doctrine, which cannot be denied without denying the efficacy of the sacrament—that there is no aggravation of sin in sinning under the expectation of obtaining pardon by confession. Aquinas admits this, but adds that there is sin in sinning with the intention of continuing to sin in expectation of pardon.[2] Tamburini even asserts that the expectation of pardon when sinning is an extenuating and not an aggravating circumstance.[3] It was clearly admitted that this was a stimulus to sin, but it was argued that Christ had instituted all the details of confession, including this, and consequently the evil of the sacrament must be accepted with the good.[4] La Croix, it is true, following Aquinas, says that if a sin is repeated in the expectation that both will be remitted with equal facility in a single confession, it is an error and presuming on the mercy of God,[5] but in the modern development of laxism even this limitation is rejected, and Gury informs us that the argument is perfectly legitimate, that it is as easy to confess repeated sins as single ones.[6] Virtually all this amounts to a *quasi* licence to sin, and even a more formal one was contained in faculties issued by the papal Penitentiary, authorizing the choice of a confessor who was empowered to absolve for all reserved cases, excluding those of the *Cœna Domini*. The question arose

[1] Segneri Instruct. Confessarii c. vii.

[2] S. Th. Aquinat. Summæ II. II. Q. xxi. Art. 2 ad 3.

[3] Tamburini Method. Confess. Lib. II. cap. ii. § 3, n. 9.

[4] Benzi Praxis Trib. Conscientiæ Disp. I. Q. iii. Art. 2, Par. 3, n. 13.

[5] La Croix Theol. Moral. Lib. VI. P. ii. n. 982.

[6] Gury Casus Conscientiæ I. 205.—A century earlier Leuterbreuver had included as a sin to be confessed the fact that sins had been committed more readily in the belief that many could be confessed as readily as one.—La Confession coupée, p. 66.

whether the recipient could be absolved for sins committed between the date of the faculty and his confession; Marco Paolo Leone informs us that he was inclined to decide in the negative, for this would enable the sinner in the interval to gratify all his evil propensities, but on consulting the Regent of the Penitentiary he was told that such letters are good up to the time of confession.[1]

It is not difficult to conjecture the influence on morality of the teaching that absolution restores the soul to a state of innocence; the debt to God is paid, the sin is no longer existent in the soul and may be dismissed from the mind. We have seen (I. p. 353) how, in the confessional, the penitent may thus deny the commission of any mortal sin for which he has obtained absolution, and the application of this doctrine to the affairs of life leads to results that seem shocking to the untrained moral sense. An adulterous wife who has been absolved can deny her guilt under oath, for she has a moral certainty that the sin has been remitted. A very common case, as Gury tells us, is that a girl who is pregnant can marry another man than her seducer, without committing sin, if she has confessed and has been absolved[2]—though what consideration is due to the deceived husband who has another man's bastard foisted on him the moralists do not stop to inform us.

The minimizing of penances in modern times can hardly fail to influence deplorably the popular conception of the heinousness of sin, even when supplemented by indulgences, for these latter are now obtainable by observances of the most trivial character. The fact that these slight impositions are assumed to placate the wrath of God, redeeming the soul from the *pœna* of purgatory and opening to it the gates of heaven, can only render morals a matter of indifference when estimated by the formalities prescribed with assurance of pardon. No matter how earnestly the moralists may dwell on the sanctions of the moral law, they are virtually obliterated in the popular mind by the facility of condoning their infractions. To the ordinary mind there is scarce any graver sin than that of an adulterous wife who poisons her husband and marries her paramour, yet in such a case the papal Penitentiary grants to her absolution and dispensation to live with her second husband, imposing only the slender satisfaction

[1] Marc. Paul. Leonis Praxis ad Litt. Maior. Penitentiarii, p. 392.

[2] Gury Casus Conscientiæ I. 418; II. 872. Cf. S. Alph. de Ligorio Theol. Moral. Lib. III. n. 162.

of giving alms according to her faculties, of having some masses said for the murdered man's soul, of confessing monthly, and of seeing that his heirs and dependants do not suffer, if this can be done without suspicion; in addition she is to have a heavy penance for a year, which Leone suggests may be, twice a week, to abstain from meat under pretext of indisposition, and not to go to bed for an hour later than usual, besides which she ought not go to balls and dances during the year.[1] Such a system confuses the moral sense and deprives of all significance the doctrine so laboriously inculcated of future rewards and punishments. Chiericato deplores the effects of this laxity, which, he says, makes the penitent oblivious of the gravity of the offence to God and prompt to relapse into sin,[2] and this is confirmed by Vasquez and Sanchez, who tell us that there is a class of scrupulous souls who are nervously anxious to obtain absolution for their past sins, while continuing to live in reckless debauchery, caring nothing about the sins which they are committing. Such persons frequently are much troubled over vows which they imagine they may have made, or over points of faith or blasphemy of no importance, while indifferent as to their graver transgressions.[3]

When the heretics of the sixteenth century rejected the sacrament of penitence, the Catechism of the council of Trent boldly affirmed that it was the one barrier which restrained sin and protected morality. "Abolish sacramental confession, and that moment you deluge society with all sorts of secret crimes—crimes too, and others of still greater enormity which men, once that they have been depraved by vicious habits, will not dread to commit in open day. The salutary shame that attends confession restrains licentiousness, bridles desire, and coerces the evil propensities of corrupt nature."[4] This is of course the official view. Domingo Soto had already expressed it in almost the same rhetorical phrases, adding that while he was in Germany the city of Nürnberg sent an embassy to the emperor asking that confession be made obligatory by imperial decree, in consequence of the increase of crime since its abrogation, but the envoys were laughed at because they could not explain how,

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[1] Marc. Paul. Leonis Praxis ad Litt. Maior. Pœnitentiarii, p. 205.

[2] Clericati de Pœnitentia Decis. III. n. 7.

[3] Th. Sanchez in Præcepta Decalogi Lib. I. cap. X. n. 86.

[4] Catechism of the C. of Trent, Donovan's Translation, p. 190.

when they refused to admit of absolution, they could compel a man to confess his secret sins[1]—for apparently the honest burghers wanted the restraining discipline of confession without the demoralizing pardon. In our own day Miguel Sanchez re-echoes the assertion: confession is incompatible with corruption, it is an insuperable obstacle to the perversion and corruption of the peoples, and this is the secret of the effort of the heretics to abrogate it, but they can only make proselytes among those who know neither fear of God nor moral restraint.[2] The test of the truth of this declamation is to be sought in the moral condition of the nations on which, for nearly seven hundred years, the Church has imposed this restraining and purifying agency. Had it a tithe of the virtue attributed to it these nations by this time would have become patterns of morality, where sinful thoughts and evil deeds would be unknown, and the contrast between them and the heretics abandoned to unbridled licence would be such as to force conviction on the minds of the most recalcitrant.

The pages of history sufficiently demonstrate the lamentable persistency of human perversity and the futility of all attempts to restrain it by the artificial device of the confessional. Possibly the growing modern sense of decency may render vice less obtrusive than in the franker medieval days, but the gain has been greater in hypocrisy than in virtue, except in so far as the humanitarian movement of the past century has softened manners, has subdued ferocity and has rendered men more sensitive to the sufferings of their fellows. Corella was no rigorist, but the picture which he draws of the state of morals in Spain at the close of the seventeenth century is hideous—in Spain which had been so carefully preserved from heretical infection, and where all the observances of religion were so rigidly enforced. Everywhere, he says, is vice and crime, lust and cruelty, fraud and rapine—in the seats of trade, in the tribunals of justice, in the family, in the court, in the churches, while the clergy, if possible, are worse than the laity.[3] Half a century later Concina gives an equally sombre view of the moral degradation of Italy; missionaries regularly traverse the provinces, crowds flock to them, and under the lively fear of hell-fire make their confessions, are

[1] Dom. Soto in IV. Sentt. Dist. XVIII. Q. 1, Art. 1.

[2] Mig. Sanchez, Prontuario de la Teología Moral, Trat. VI. Punto ii. § 3; Punto v. § 2.

[3] Corella Praxis Confession. P. II. Perorat. n. 3.

relieved of their sins, and at once return to the work of accumulating wickedness for the exercises of the next year; they pass their lives in this ceaseless round of confession and relapse, and scarce five out of a thousand penitents give signs of true Christian justification or reap its fruits. The source of this monstrous deception is that from childhood they have been accustomed to see these alternations of sacrament and relapse, and they think it enough to confess while wallowing like swine in the mire of their lusts.[1] If Concina's rigorism be thought to render him a prejudiced witness, we may turn to Salvatori, who, in 1802, declares that now more than formerly it may be said, as in the time of Noah, that all flesh has corrupted its way upon the earth; he describes licentiousness as pervading universally every age and sex and class, so that it is matter for public boasting, and the few who live chastely are subjects of ridicule.[2] In 1850 the bishops who assembled in the council of Siena issued a synodical letter, which is an abject acknowledgment of the failure of the Church; it had crushed out all dissidence in the sixteenth century, and since then had had undisputed control of the school and the confessional, yet the bishops tell us that among the cultured classes there is an infinite multitude who are Christians only in name, while still more numerous are those of the lower orders, whose ignorance leaves them defenceless against false teachings.[3]

All this is positive testimony, from those best able to judge, as to the condition of the population in the two most thoroughly orthodox regions of Europe, where the Church had been free from external interference in enforcing its precepts. There remains for us the interesting question of the comparative morality of Protestants and Catholics, by which to estimate what has been the effect, in promoting righteousness, of the sacrament of penitence.

On the one hand, Döllinger has collected a mass of testimony to show that, from 1525 to the end of the sixteenth century, numerous Protestant pastors complained that the morals of the people were worse than under Catholicism.[4] Men disillusioned in their hopes

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[1] Concina, Theol. Christ. contractæ Lib. XI. Diss. 1, cap. 9, § 3, n. 2, 3, 8.—Cf. Esplicazione di Quattro Paradossi cap. ii. § 1. n. 4.

[2] Salvatori, Istruzione per i novelli Confessori, P. I. § ix.

[3] Synod. Senarum ann. 1850, Litt. Synodalis (Collect. Lacensis VI. 277–8).

[4] Döllinger, Die Reformation, ihre innere Entwicklung und ihre Wirkungen, Vol. II. (Regensburg, 1848).

that the simple teaching of the Evangel would serve to curb the evil tendencies of human nature, and irritated by the comparison between their diminished authority and that enjoyed by the priests of the old faith, were not likely to regard with mildness any departure from their own rigid standard, and their statements must be received with allowance. On the other hand, at the outbreak of the Reformation, the German Church had sunk to the lowest depth of degradation; the people were untaught and untrained, and the clergy set them an example of cynical wickedness. Luther's success was to a great extent attributed, by those who refused to join him, to the general disgust of the people at the depravity of their pastors.[1] Under such circumstances any change might readily be for the better. It is true that George Witzel, on his return to Catholicism, justified himself, in 1534, by declaring that there was greater licence of sin among the Evangelicals than among the orthodox,[2] but he subsequently saw reason to change his opinion, and in his memorial to the Emperor Ferdinand he asserted that the morality of the Lutherans was superior to that of the Catholics.[3] More significant is the testimony, a century later, of Caramuel, who was a zealous persecutor of heretics, that in many provinces of Germany the

[1] I have accumulated much evidence of this in my History of Celibacy, pp. 430, 514, 518, 527, 529, 548, 556. See also the memorial sent, about 1543, by Frid. Nausea, Bishop of Vienna, to the Cardinal of Santa Croce, printed by Döllinger, *Beiträge zur politischen, kirchlichen u. Cultur-Geschichte*, III. 154. The letters of the early Jesuits sent to Germany, quoted by Stewart Rose (St. Ignatius Loyola and the early Jesuits, pp. 354–55, 359, 364, 459, 526 etc.), give an equally deplorable account. In Vienna no one had received holy orders for more than twenty years. In Worms, Pierre Favre wished that there were at least two or three churchmen who were not living openly in sin or stained by notorious crimes. Erasmus tells us that among laymen the title of clerk or priest or monk was a term of bitter insult (Milit. Christianæ Enchirid, can. 6). Apparently but for the stimulus imparted by the Reformation the Church must ere long have become an organization maintained merely for political and financial purposes. As a spiritual instrumentality it was virtually dead. A letter of St. Pius V. about 1570 (Pii V. Epistolarum Lib. II. Epist. 20, Antverpiæ, 1640, p. 109) shows how little improvement had as yet been effected, and offers an amusing commentary on the swelling rhetoric of the contemporary Tridentine Catechism.

[2] "Vidi apud nos licentius peccari quam apud eos quos pro Antichristianis jure nostro judicabamus."—Döllinger, Die Reformation I. 36 (Zweite Aufl. 1851).

[3] Döllinger, Beiträge, III. 179.

Lutherans were more moral than the Catholics, whose lives were scandalous.[1] By this time the counter-Reformation had worked its full effect, and the rival systems had had a fair opportunity of showing their respective merits.

These are mere generalities, and must be taken for what they are worth. If we turn to modern times and refer to the great champion of Catholicism, Balmes, we find nothing but vague and empty rhetoric—the *a priori* assumption that the sacrament of penitence is one of the most powerful means of directing human life in accordance with morality, and that human weakness requires the guidance of the confessor, though he admits that virtue is possible in Protestantism, since examples are seen of it every day.[2] It is the same with the eloquent periods of Padre Ventura de Raulica, who has nothing to offer in the way of proof save his own assertions and those of his fellow-religionists.[3] De Decker assumes the beneficial influence of the confessional as a matter of course, and cites in its support the theoretical opinions of Voltaire, Rousseau and Lord Fitzgerald.[4] The latest Catholic apologist has insight enough to see and candor enough to admit that, in the middle ages at least, faith had little or no influence on morals.[5] Bellingham gives some garbled statistics to prove the superior morality of Catholicism, but his labors are destitute of the slightest claim to scientific purpose or accuracy, and not much more can be said in behalf of the carefully selected figures presented by Cardinal Gibbons.[6] All such works are vitiated by the principle which Father von Hammerstein, S. J., alone has the courage to confess—that he approaches the subject with the conviction that the Catholic faith and discipline insure purer morals; that all facts in accordance with this are to be accepted and all that contradict it are to be explained away.[7]

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[1] Caramuelis Theol. Fundam. n. 1347.

[2] Balmes, El Protestantismo comparado con el Catolicismo, Capit. XXX. (Barcelona, 1844, II. 165–7).

[3] Ventura de Raulica, Conferencia Decimaoctava (Traducida por José Nieto, Madrid, 1856).

[4] De Decker, L'Église et l'Ordre Social Chrétien, p. 112 (Louvain, 1887).

[5] Lilly's Claims of Christianity, pp. 133–5 (New York, 1894).

[6] Bellingham, Social Aspects of Catholicism and Protestantism, chap. VII. (London, 1879).—Gibbons, The Faith of our Fathers, pp. 421–7 (Baltimore, 1893).

[7] L. von Hammerstein, Konfession und Sittlichkeit, pp. 8–9 (Trier, 1893). See also his *Nochmals: Konfession u. Sittlichkeit.* His principal argument is

Within the last half-century most of the European nations have accumulated elaborate statistics as to crime within their borders, which throw some light on the question before us, if used with caution and judgment, although sociologists, who have made the deepest study of these matters, are agreed that comparative international criminal statistics, taken as a whole, are too misleading to form the basis of absolute conclusions. There is too great a difference in laws and customs, in the activity of the police and in the rigor of the tribunals, to afford accurate comparative data; lands possessing the severest laws, the best police and the most sensitive popular morality show the worst results, while those which are the most backward display the most favorable figures.[1] On one important point, however, there is a general consensus of opinion, which is that, except in Great Britain, crime has been steadily on the increase during the period for which statistics are available. This is not attributable to the influence of religion, for it is common to both Catholic and Protestant countries, but is ascribed to relaxation in criminal jurisprudence and administration, including the extension of trial by jury, to the growth of urban population and to the increase in the consumption of alcohol, while the diffusion of education, from which so much was hoped, has failed to arrest this deplorable progress. The exemption of England in this respect is assumed to arise from the sustained severity with which criminal justice is dispensed there. In fact, religion has much less influence on morals—at least, on that portion of morals which falls under the jurisdiction of the police—than we are in the habit of believing, and our confidence in the ethical benefits derived from Christian teaching is unfortunately not

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that among Catholics there are annually 58 cases of suicide to the million, while among Protestants there are 190. Unquestionably Catholic teaching is better fitted than Protestant to discourage this special weakness, but then in the Greek Church of Russia the average is only about 28. In England and Wales it is 69, and in France 160. The German tendency to suicide brings up the Protestant average; in Saxony it is 338 (Van Oettingen, Die Moralstatistik, Anhang, Tab. cxx.). Obviously no general conclusions can be drawn from these facts, except that the proclivity to suicide is a matter of race rather than of religion.

[1] Köbner, Die Methode einer wissenschaftlichen Rückfallstatistik, Berlin, 1893, pp. 76–79. See also von Oettingen, Die Moralstatistik in ihrer Bedeutung für eine Socialethik, Erlangen, 1882, p. 455.—Ferri, La Sociologie Criminelle, Paris, 1893, p. 139.—Morrison, Crime and its Causes, London, 1891, pp. 5–7, 9, 10.

justified by facts. In the sixteenth century Bishop Guevara felt obliged to admit that the morality of the Spanish Moors was higher than that of the Christians.[1] It is the same to-day, where the rival faiths are brought into competition. In Algeria, the arrests for all offences of European foreigners average per annum 111 for every 10,000; of Frenchmen 71, of Arabs only 34.[2] Still more striking are the carefully kept statistics for Hindostan, a land where the dense population and the general poverty would seem to offer every incentive to crime, yet it has less than any Christian nation, whether as respects offences against person or against property. According to the returns for 1880, trials for crime in England amounted to one person out of every forty-two of the population, while in India the proportion was only one out of every one hundred and ninety-five, or scarce more than one-fifth as many, and this comparative immunity is attributed, by those best able to judge, not to the tenets of Brahmanism, but to the caste system under which every individual is a member of a body exercising close supervision over his every act and inflicting penalties for transgression, culminating in expulsion, which destroys his career in life.[3] A somewhat similar discipline in the Society of Friends, associated with moral training in the family, renders that organization exceptionally pure among Christians, and the superior morality of the small Protestant communities in France over that of the population at large is explained by the watchfulness exercised over their members.[4] Unfortunately, as human nature is constituted, imminent earthly penalties have a more restraining influence than contingent future ones, which may be averted by timely repentance. A comparison between Judaism and Christianity is moreover not flattering to the latter. In France the proportion of Jews who render themselves amenable to the law is recognized as exceptionally small.[5] In that form of immorality which is manifested by the statistics of illegitimacy Jews make a much better showing than Christians. In Vienna, the proportion of illegitimate to legitimate births among the Jews is only between a third and a fourth of that among Catholics; in Prussia it is between a third and a half of that among Christians.[6]

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[1] Caramuelis Theol. Fundament. n. 1347.

[2] Tarde, La Criminalité comparée, Paris, 1890, p. 14.

[3] Morrison, Crime and its Causes, pp. 55, 134.

[4] Joly, La France Criminelle, 3e Éd. Paris, 1889, p. 63.

[5] Joly, *loc. cit.*

[6] Von Oettingen, Die Moralstatistik, p. 324.

The statistics as to illegitimacy in Europe present curious anomalies which enable controversialists on both sides to adduce figures proving the superior morality of their respective faiths. Catholics point with reasonable pride to Ireland, which not only has the lowest ratio of illegitimates in Europe (25 in 1000 births) but which emphasizes the fact in the contrast between its several provinces. Thus Connaught, with 95 per cent. of Catholic population, has a rate of only 7 in 1000, while Ulster, with 52 per cent. of Protestants, has a rate of 40.[1] This, taken by itself, would appear conclusive, especially when comparison is made with Calvinistic Scotland, which shows a rate of 84 illegitimates to the 1000, but a broader survey of European statistics proves that religion is scarce a factor in the matter, and that it would be easy to present figures equally convincing on the other side, such as England compared with Austria or Berlin with Vienna.[2] The following table, borrowed by Dr. Leffing-

[1] Leffingwell, Illegitimacy, London, 1892, p. 28.

[2] The comparison between Vienna and Berlin for a series of years is—

	Percentage of illegitimate births.			Percentage of illegitimate births.	
	Vienna.	Berlin.		Vienna.	Berlin.
1867	50.6	14.6	1874	39.1	13.5
1868	49.9	14.7	1875	39.9	13.3
1869	47.7	14.4	1876	41.8	12.9
1870	43.6	14.1	1877	41.9	13.1
1871	42	14.1	1878	42.8	13.3
1872	39.3	13.2	1879	44.1	13.4
1873	38.9	13.7			

The statistics of the leading European cities, arranged in the order of their illegitimates, are—

	Per cent.		Per cent.
Graz (1861)	62.5	St. Petersburg (1862)	20.2
Munich (1861)	50.9	Dresden (1861)	18
Vienna (1868)	49.9	Madrid (1862)	17.2
Prague (1869)	49.6	Berlin (1864)	14.9
Rome (1871)	44.5	Riga (1862)	10
Stockholm (1860)	40	Edinburgh (1871)	9.5
Moscow (1861)	38.1	Hamburg (1876)	9.2
Pesth (1870)	30.5	Mittau (1864)	9
Paris (1869)	28.5	Revel (1863)	8.1
Copenhagen (1860)	25	London (1866)	3.9
Brussels (1870)	22.5	Barmen (1864)	2.8
Lisbon (1861)	21		

—Von Oettingen, op. cit. pp. 317–19.

The average annual aggregate of illegitimate births in Europe is about

well from Bertillon, will show the respective religious standing in this discreditable competition:

		Illegitimates in 1000 births, average in 5 years, 1878–82.
Ireland,	*Catholic*	25
Russia,	*Greek*	28
Holland,	*Two-thirds Protestant*	30
Switzerland,	*Nearly equally divided*	47
England and Wales,	*Protestant*	48
Italy,	*Catholic*	73
France,	*Catholic*	74
Belgium,	*Catholic*	77
Prussia,	*Lutheran*	77
Norway,	*Lutheran*	82
Scotland,	*Calvinist*	84
German Empire,	*Two-thirds Protestant*	89
Denmark,	*Lutheran*	101
Sweden,	*Lutheran*	101
Saxony,	*Lutheran* 96 *per cent.*	127
Bavaria,	*Catholic*	132
Austria,	*Catholic*	143[1]

If there is an encouragement in the fact that there has been a steady decrease in England of illegitimate births from 67 per 1000

700,000 (Ibid. Anhang, p. xxxvii.)—a most disheartening proof of the inefficacy thus far of Christian training.

[1] Leffingwell, p. 52. A table such as this can only show the general features. The contrasts within national boundaries are sometimes notable. Thus the several provinces of Italy show an average, for the years 1872–79, of illegitimates per 1000 births—

Lombardy	27.9	Tuscany	101.3
Piedmont	34.5	Emilia	140.5
Venetia	51.4	Umbria	199.3
Basilicata	52.8	Roman State	215.4
Sardinia	100.3		

—Von Oettingen, p. 324.

Where there is a mixed population of Catholics and Protestants it is easy to find statistics favorable to Protestantism. Thus in Vienna the percentage of illegitimate births is for Catholics 44, for Protestants 22, for Jews 12 (Ib. p. 324). In Bavaria, the Palatinate with a mixed population has a percentage of only 5; in Lower Bavaria it is nearly 16, while for the Protestant population alone it is only 7 (Ib. p. 315).

Von Hammerstein (Konfession u. Sittlichkeit, p. 11) explains the greater number of illegitimate births in southern Germany by the fact that in the north the number of prostitutes is greater: thus in Berlin there is one to every 62 inhabitants, while in Vienna the proportion is one to 169.

in 1842 to 46 in 1889, on the other hand, we are met with an equally steady increase in Carinthia from 330 per 1000 in 1831 to 460 in 1876, and in Istria from 27.5 per cent. in 1831 to 35 in 1874.[1]

Taking the statistics as a whole, with their remarkable anomalies, sociologists reach the conclusion that the restraining influence of the different faiths has less to do with the prevalence of illegitimacy than custom, heredity and race, and that as a rule the Teutons are less chaste than the Latins. In Tirol, valleys with a German population will show ten per cent. of illegitimate births, while neighboring valleys of Italians have only one per cent.[2] Yet it is held that the northern races have greater respect for the sanctity of the marriage tie than the southern, and that if the adulterine births in wedlock could be computed the comparison might be materially affected.[3]

The statistics of homicide, which are reasonably free from the misleading elements affecting the comparison of lesser crimes, offer a comparison more unfavorable to Catholicism. The following table, showing the proportion of murders to every 100,000 inhabitants, would certainly appear to indicate that at least with respect to this

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[1] Leffingwell, p. 21.—Von Oettingen, p. 314.

[2] Von Oettingen, p. 314.

[3] It is to be hoped that Garofalo exaggerates when he says (La Criminalité, Paris, 1892, p. 19) "La grande majorité des jeunes filles continuera toujours à se laisser séduire, comme la grande majorité des femmes continuera à se laisser entrainer à l'adultère. La *unico gaudens mulier marito* que Juvenal cherchait inutilement, n'a jamais été qu'une exception en tous temps et en tous lieux." To which he adds (p. 162) "Des dames très croyantes peuvent passer toute leure vie dans l'adultère, et à l'église pleurer agenouillées au pied de la croix. Car la luxure est un péché mortel, comme le haine et la colère, mais la bénédiction d'un prêtre peut également les absoudre tous." And he alludes to the frequent fact of brigands and assassins who are devoted to the Virgin and the saints.

Ferri takes the same view as to the influence of religion "Il faut cependant renoncer à l'illusion psychologique commune d'après laquelle le sentiment religieux serait par lui-même un preventif du crime. It arrive au contraire que la grande majorité des criminels sont des croyants sincères, et parmi les athées il y a d'honnêtes gens et des coquins comme il y en a parmi les croyants." —La Sociologie Criminelle, p. 240.

Joly gives affirmative evidence of this in France, where the department of Lozére is one of those which give the highest percentage of criminals, and yet where the people are especially religious. There is a popular saying in the vicinage "Lozérien! le chapelet d'une main, le couteau de l'autre."—Joly, La France Criminelle, p. 274.

crime, the confessional fails to exert a restraining influence equal to the simpler ethical teaching of Protestantism.

Italy (1887) . . .	12.67	Germany (1887) . .	1.14
Spain (1886) . . .	8.59	Ireland (1887) . .	1.93
Austria (1885) . .	3.11	England (1886) . .	1.08
Belgium (1885) . .	2.52	Scotland (1886) . .	0.94[1]
France (1887) . .	2.13		

With regard to minor offences against persons and property it would be useless to compare the statistics, for the reason, as stated above, that the laws and their execution, and even the definitions of crime, vary so greatly in the different nations that they admit of no rational comparison. A statement that in 1886 there were pronounced in England 653,750 sentences for all transgressions of the law, in France 168,302, and in Italy 337,394,[2] indicates only that

[1] Garofalo, La Criminologie, Paris, 1892, pp. 440–1.

In Hungary, which is omitted from the above table, the average number of homicides in the years 1881–7 was 1231 per annum (Ibid. p. xvi.), which gives a ratio of 7.8 per 100,000. The population is about half Catholic, the other half being nearly equally divided between Greeks and Protestants.

Garofalo's estimate of the annual aggregate of homicides in Europe is about 15,000.

In the United States according to Prof. E. S. Morse (Popular Science Monthly, August, 1890), the number of homicides officially reported in the six years, 1884–9, was 14,770. This would give an annual ratio of about 3.9 to the 100,000. It is probable that this may be too low. The U. S. Census of 1890 reports 7351 persons then imprisoned for homicide. According to newspaper statistics the number of homicides, in 1891, was 5906, in 1892, 6791, in 1893, 6615, in 1894, 9800, and, in 1895, 10,500. If these figures be accurate, possibly the deplorable increase may be partially explained by the greater perfection in the organization of news-collecting and by the augmented immigration from southern and eastern Europe.

If the statistics of homicide in the Spanish American lands and the British possessions in America and Australia could be compiled and added to the above, it is probable that we should add an annual holocaust of more than 25,000 victims to human passion within the confines of Christendom.

Italy is however the classic land of homicide. Garofalo (p. 125) quotes from Gabelli (Roma e i Romani, Roma, 1884) "Il y a quinze ou vingt ans à peine, une jeune fille n'aurait guère accepté pour mari un jeune homme n'ayant jamais eu affaire avec les gendarmes, ou n'ayant jamais tiré son couteau."

[2] Ferri, La Sociologie Criminelle, Paris, 1893, p. 164. Leffingwell points out (p. 110) that in 1879 the cases of criminal assault reported in England were 542, and in 1887 the number had increased to 1210, but that the difference was caused by an Act of Parliament enlarging the definition of the offence.

the judicial system and legislation of the three countries are so radically different that no inference whatever can be drawn from their statistics as to the comparative morality of their population. When we are told that the annual trials for theft per 100,000 inhabitants are in Spain 74, in Italy 221 and in England 228,[1] we learn nothing as to the comparative honesty of the respective peoples, but the information is suggestive as to the efficiency of their police organizations. In the United States, the proverbial neglect of vital statistics deprives us of data for comparison with European experience, but there is a significant feature in the information gathered by the U. S. Bureau of Education from penal institutions in 1892, when those making returns reported that of their inmates 42 per cent. were Catholics.[2] As Catholics form but about one-seventh of the population they would seem to contribute more than their share to the criminal classes. In view of the prominence assigned by criminologists to drunkenness as a cause of crime, we may perhaps partially explain this by the fact, as stated in the recent controversy excited by the Apostolic Delegate Satolli's attitude on the subject of liquor-selling, that two-thirds of the saloon-keepers in the United States are Catholics.

From all this it would appear to be a reasonable conclusion that whatever restraining power the confessional may exercise on some minds is more than counterbalanced by the nebulous morality inculcated by probabilism and by the facile absolution, which, as the sinner is taught to believe, relieves his soul of the burden of his transgressions.

If the sacrament of penitence thus fails in its ostensible purpose of strengthening the soul against temptation, it at least has succeeded

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[1] Morrison, Crime and its Causes, p. 130.

[2] Mac Donald, Abnormal Man, p. 28 (Bureau of Education, Circular No. 4, 1893).

About 27 per cent. of the prison population were foreigners, Ireland contributing 11 per cent., England 4, Canada 3, Germany 3, Scotland 0.8, France 0.4, Italy 1 and other countries 4.

Of the total prison population, by the census of 1890, 25.55 per cent. were white descendants of natives and 34-66 per cent. were foreign born or had both parents foreign, while 29 49 per cent. were negroes, and the remaining 10.30 per cent. were of mixed parentage or unknown, including a few Chinese and Indians.

in establishing the domination of the priest over the consciences of the faithful in a manner which no other institution could effect, and which has no parallel in human history. The Hindu Brahman, the Buddhist lama, the Parsee dustoor, the Tartar shaman, the Roman flamen, the Mosaic Levite, the Talmudic rabbi, the Mahometan alfaqui, have all sought, in their several ways, to secure what control they could over the souls of their believers, but in no other faith has there been devised a plan under which a spiritual director could render himself the absolute autocrat over every act, whether of internal and external life, of the beings subjected to his dictation.[1]

Even before confession was rendered obligatory, the pseudo-Augustin exhorts the penitent to abandon himself unreservedly to the judgment of the priest, prepared at his command to do for his soul's life everything that he would do to escape the death of the body, and this precept, when adopted by Peter Lombard, became a common-place of the schools.[2] As yet all the world was not required to confess, and Peter Cantor advises the confessor to have but few penitents, so that he can exercise over them proper watchful supervision, visiting them frequently to see that his instructions are obeyed.[3] With enforced confession and its attendant doctrine of jurisdiction, whereby all parishioners were required to confess to the parish priest, this minute surveillance became no longer possible on a large scale, especially with the indolent and worldly incumbents or their hired vicars, but the intimate knowledge gained in the confessional of the secret transgressions of each member of his flock and the arbitrary power to dictate the amount of penance enormously increased his authority. It behooved every peasant and every burgher to stand well with his pastor, and a sinful girl or matron who had once confessed her frailty was virtually at his mercy. Even

[1] "La Potestad de perdonar los pecados que el sacerdote recibe en su ordinacion es verdaderamente grande y sublime, y excede á todo cuanto puede imaginarse de mas grande y de mas terrible. Es un poder superior á todos los poderes de los hombres y á todos los de los ángeles; es un poder divino que el sacerdote no divide mas que con el Dios que se lo ha conferido; es la autoridad misma de Jesucristo sobre las almas que él ha redimido."—Ventura de Raulica, Conferencia Decimaoctava p. 197 (Madrid, 1856).

[2] Ps. August. de vera et falsa Pœnitent. c. 14, 15.—P. Lombard. Sententt. Lib. IV. Dist. xvi. § 1.

[3] P. Cantoris Verb. Abbreviat. cap. 144.

in righteous hands such power as this is dangerous, and in unrighteous ones the opportunities of abuse are infinite.

With the advent of the Mendicant Orders, devoted to the pulpit and the confessional, the confessor and the penitent could be brought more intimately together. The business of the confessional was thoroughly elaborated and methodized, and the lists of interrogatories drawn up for the guidance of confessors show how completely every detail of the penitent's life was subjected to his scrutiny and his guidance. Every act, every transaction, every emotion or passion, is ordered to be laid bare to him, in order that he may pass judgment as God on the state of the sinner's soul. With the gradual minimizing of satisfaction this became eminently superfluous, and its retention can only be explained by the desire, on the one hand, to impress the penitent with the awful nature of the tribunal, and on the other to acquire and maintain control over him. The beneficent influence of such supervision is incontestable, if it can be exercised by superhuman intelligence and love, but it requires superhuman qualifications; the best and wisest of men is likely to do harm as well as good in handling human relations so complex and so delicate; the average good man is liable to do more harm than good, while the capacity for evil thus afforded to the evil is incalculable.

An illustration of the ubiquitous meddlesomeness which places every man at the mercy of his confessor is furnished by the rule that a trader must not buy at less nor sell at more than a just price, under pain of mortal sin and restitution.[1] Thus every transaction

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[1] Savonarolæ Confessionale, fol. 57.—Summa Angelica s. v. *Interrogationes* (fol. 180*b*).—Reuter, Neoconfessarius instructus n. 157.—S. Alph. de Ligorio Theol. Moral. Lib. IV. n. 292.

The *turpelucrum* of buying cheap and selling dear finds its origin in a capitulary of Charlemagne (Capit. Noviomagens. ann. 806, cap. 18), thus stigmatizing the purchase of grain or wine at harvest or vintage, and keeping it till the price advances. This was embodied by Ansegise and Benedict the Levite in their collections (Capitul. I. 125, V. 265), and thence it passed, attributed to Julius I., through Burchard and Ivo into Gratian (c. 9, Caus. XIV. Q. iv.). Bernard of Pavia's comment on this is that it is an honest gain to buy goods at Alexandria and sell them at a profit in Bologna, but to purchase and hold for a rise is not only filthy gain but punishable.—Bern. Papiens. Summæ Lib. V. Tit. XV. § 4.

It is observable, however, that the most recent moralists discreetly pass the

of the merchant and shopkeeper is subjected to supervision as a matter of conscience in the confessional, provided the confessor does his duty. He cannot conscientiously neglect it, for, if he does so, the sacrament which he administers may be invalid, and the soul of the penitent be consigned to eternal flame. Whether he neglects it or not, it gives him the opportunity of passing judgment and of rendering himself infinitely disagreeable to all his mercantile penitents in a matter in which he is utterly incapable of forming a rational opinion. Escobar thus is thoroughly justified in saying that with business men the confessor must be told all the details of their affairs and contracts, so as to know whether there is obligation of restitution in the past or in the future; moreover, a man engaged in an unjust law-suit or one undertaken through hatred must promise to abandon it before he can be absolved.[1] Thus it is with every act in life; the whole existence of the individual is surrendered to the discretion of the priest. Whenever a man feels in doubt as to the propriety of an act he is to consult his confessor and accept his opinion.[2] A girl at her first communion makes an inconsiderate vow of chastity; at the age of twenty she receives an advantageous offer of marriage, and she applies, of course, to her confessor to know whether she can accept it, pleading lack of deliberation and tender age when the vow was made. A girl foresees that she will be required to dance at the wedding of her sister and consults her confessor whether she can do so; he should counsel her to find some device to escape it, but if she cannot she should, while dancing, turn her thoughts on death and the day of judgment.[3] A judge must be called to account for all his judicial acts, which must be regulated by the dicta of the theologians rather than by the law of the land, for Pontas discusses what sentence should be passed on a false accuser unable to prove his charge, and concludes, on the authority of Aquinas, that it must be the *talio*—if the accusation be of a capital offence the accuser must be condemned to death.[4] As the

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question over in silence, and confine themselves to condemning regrating and forestalling.—Varceno Comp. Theol. Moral. Tract. XII. P. ii. cap. 2, § 7. We have also seen (p. 399) how the casuists eluded the precept.

[1] Escobar Theol. Moral. Tract. VII. Exam. iv. cap. 8, n. 43.

[2] Marc Institt. Moral. Alphons. n. 40.

[3] Gury Casus Conscientiæ I. 44, 236.

[4] Pontas, Dict. de Cas de Conscience, s. v. *Accusation*, c. 4.

circumstances of life vary so infinitely, no absolute rules can be laid down for the guidance of the confessor in all things, but Cardinal Lugo includes among the precepts recognized by the Church, that all cases must be left to his discretion, when, illumined from above, he can decide according to the state of the penitent what is fitting for his benefit and salvation.[1] The full significance of this can only be appreciated when we remember that the function of the confessor is not only to decide as to past actions, but also to require the abandonment of all occasions of sin. From what has been already said as to this (p. 40) it is easy to understand how completely the life of the penitent may be subjected to the discretion of the priest, and what use may be made of the power by the unworthy. Even as early as the time of Astesanus it is declared that if a confessor forbids intimacy with friends whom he deems worldly, the order must be implicitly obeyed,[2] and a recent authority tells us that he can withhold absolution from a mother who refuses at his order to close her door on a man who is courting her daughter.[3] Thus the question of proximate and remote occasions of sin is capable of indefinite extension at the discretion of the confessor, and can be so construed as to render him the despot of a family, who must conform themselves to his will under pain of perdition—a power essentially arbitrary and liable to the gravest abuses, whether through superabundant zeal or worldly motives. As it is the business of the physician not only to cure disease but to prevent it, so it is the duty of the confessor to guard and strengthen his penitent against all temptation and sin,[4] and he must have the necessary authority. Even in the sick chamber his control is supreme, for the parish priest is instructed to visit assiduously those of his flock who are sick, and to take special care that nothing is done for the cure of the body which may have a tendency to injure the soul.[5]

This is especially the case with those who are selected as spiritual directors, to whom the sinner is instructed to surrender himself wholly and blindly. As the Blessed Juan de Ávila tells us you must do nothing of importance without obtaining the opinion of

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[1] Laemmer, Meletematum Romanorum Mantissa, p. 392 (Ratisbonæ, 1875).

[2] Astesani Summæ de Casibus Lib. v. Tit. xxxi. Q. 2.

[3] Mach, Tesoro del Sacerdote, II. 264.

[4] Fornarii Instit. Confessar. Tract. III.

[5] Ritualis Roman. Tit. v. Cap. 4.

your guide, and must follow it in reliance that God will inspire his heart and tongue to that which befits your salvation;[1] and a more recent authority assures us that the most convincing proof of true piety in a penitent is his complete submission to his director, who speaks to him and governs him in the name and with the authority of God, so that the obstinacy which refuses obedience is diabolical.[2] A curious phase of this is the relation thus established between the director and his female penitents. The rigorist Habert tells us that the more a priest endeavors to guide women the more useless he becomes, and he gives us a long and vivid description of the manner in which a female devotee is absorbed by her confessor and endeavors to absorb him, looking for salvation to him and not to Christ, desiring to be always with him and jealous of all his other penitents, and thinking that she can employ her property in no better way than in contributing to his comfort. It is a picture from the life, such as a heretic would hardly dare to paint. The sensual priest, he says, enjoys all this; the virtuous one will not permit it, and yet he may well hesitate to dismiss such a devotee, for to do so often exposes her to the danger of death.[3] That worldly priests sometimes endeavor to bind such penitents to them by vows and oaths not to confess to any one else would appear from a prohibition, in 1850, by the council of Rouen, to require this and a declaration that any such promises are void.[4]

In addition to all this there is a reserved power which must make every man feel that his eternal destiny is wholly in the hands of his confessor, for the doctrine of intention requires that the priest in bestowing absolution must have the intention to do so, otherwise it is invalid.[5] Thus, if he has ill-will against any one, he can plunge him into the eternal tortures of hell by simply withholding his intention while pronouncing the sacramental words. The penitent believes his sins remitted, never thinks of the necessity of repeating his confession, and his unremitted sins remain scored up against

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[1] Regole del P. Maestro Giovanni d'Avila (Vita scritta dal P. F. Luigi di Granata, Roma, 1746, p. 292).

[2] Bernardo Sala, Prontuario del Confesor, Vich, 1866, p. 21.

[3] Habert Praxis Sacr. Pœnit. Tract. I. cap. 3, n. 3.—See also Lochon, Traité du Secret de la Confession, ch. XIX.

[4] C. Rothomag. ann. 1850, Decr. XVII. § 2 (Collect. Lacens. IV. 529).

[5] C. Trident. Sess. XIV. De Pœnitentia c. 6.

him in judgment. We may confidently believe that such misuse of the power of the keys is rare, and yet the consciousness that it is possible is a factor not to be neglected in the relations between the pastor and his people.

That a power such as this over the consciences of the faithful should be turned to account in an organized manner, rendering the Church occasionally a somewhat dangerous factor in the State, is inevitable. In fact, Miguel Sanchez, after a long diatribe on the tendencies of modern society, instructs the confessor, whenever a statesman or politician, or public writer, or person of influence comes to the confessional, to tell him that if he comes to the sacraments through faith, faith without works is dead; that if belief is undermined, license and anarchy must follow; that the alternative is Catholicism or socialism and communism, and that he must not lose sight of the shortness of life and the terrible problem of eternity.[1] How effective a political canvass can thus be organized without trouble is self-evident, while the confessional becomes a political detective office through the precept of Fornari, that if a penitent has cognizance of some crime threatening injury to the community he must not be absolved until he promises to reveal it to the authorities.[2] In a similar spirit S. Carlo Borromeo seeks to use it for the persecution of heretics, as appears by his instructions to confessors always to ask the penitent whether he knows of any heretics or suspects of heresy, when, if so, he is to be forced to denounce them.[3] Thus the confessional is used without scruple to further any object which the Church may have in view, and the *dispositio congrua*, which is so liberally construed with regard to attrition and in warning against habitual sin, is elastic enough to cover any political aim of the moment, while the kindly caution never to send away the sinner in despair is apparently only intended for cases of sin and is not applicable to politics. In Belgium, in 1881, the control of the priesthood over the sacraments was freely used in the struggle between the state and

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[1] Mig. Sanchez, Prontuario de la Teología Moral, Trat. VI. Punto vi. n. 4.

[2] Fornarii Instit. Confessar. Tract. I. cap. 2.

[3] S. Car. Borromei Instruct. Confessar. Ed. 1676, p. 58.

We have seen above (I. p. 231) the use made in the thirteenth century of the confessional for the discovery of heresy.

parochial schools.[1] In the United States there is no hesitation as to the most unscrupulous resort to the same means. Father Müller, in urging the duty of all Catholics, not only to send their children to parochial schools, but to contribute to their building and maintenance, remarks "And should there be refractory characters who do not care about a good Catholic education, let priests refuse them absolution as penitents who are not disposed for the worthy reception of the sacraments. They cannot scruple to do this. . . . 'I do not see,' said the Archbishop of Cincinnati—and many other bishops say the same—'I do not see how parents can be absolved if they are not disposed to support Catholic schools and send their children thereto.' 'Duty compels us,' says the Bishop of Vincennes, Ind., in his Pastoral Letter of 1872, 'duty compels us to instruct the pastors of our churches to refuse absolution to parents who, having the facilities and means of educating their children in a Christian manner, do, from worldly motives, expose them to the danger of losing their faith.'"[2] Sometimes this episcopal control over the confessional is used to better purpose, as in the effort recently made by Bishop Watterson, of Columbus, Ohio, to diminish the evils of the liquor traffic, when among other measures he ordered absolution to be refused to saloon-keepers who violate the law, and his mandate has been approved by the Apostolic Delegate, Satolli.

The secrecy which so carefully shrouds all that occurs in the confessional conceals for the most part this abuse from public notice, but instances of it become known with sufficient frequency to justify the presumption that it is resorted to whenever there is the prompting of a sufficient motive. When, in 1308, Clement V. was proposing a crusade by the Knights of St. John, he ordered all the confessors in Europe to use the confessional to obtain contributions for the good work.[3] De Thou tells us that, in 1587, confessors were the most useful assistants in starting and organizing the League; they assured their penitents of the legality of such bodies, even when not permitted by the authorities, and refused absolution to those who would not join it. Complaint was made at first to the Bishop of Paris, and

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[1] N. Y. Nation, April 21, 1881. The curé of Virginal declared that murder was a less offence than voting for a Liberal, because Liberalism is heresy.

[2] Müller's Catholic Priesthood, III. 117-8.

[3] Clement. PP. V. Bull. *Exsurgat Deus*, 11 Aug. 1308 (Regest. Clement. V. Ann. III. n. 2989).

then to the Cardinal Legate Morosini, who forbade confessors thus to abuse their sacred ministry. The only result of this was that more caution was used and that the novel doctrine was taught that the seal covered everything uttered by the confessor as well as by the penitent.[1] When, in 1589, after the assassination of Henry III., the Signoria of Venice recognized Henry IV. as the Most Christian King, Sarpi tells us that the Jesuits of Venice made it a matter of conscience with the senators who were their penitents, and refused them absolution, unless they would retract the recognition, and, in another passage, he alludes to the enormous influence exercised by confessors over their penitents in extending and enhancing the authority of the Holy See.[2] In 1706, at the height of the war of the Spanish Succession, the Inquisition, at the instance of Philip V., issued an edict reciting that, in spite of the censures uttered by Clement XI. against all ecclesiastics unfaithful to the obedience due to the king, there are confessors who in the confessional solicit their penitents to treason and rebellion, assuring them that the oath of fidelity which they have taken is not binding on their consciences; wherefore all persons so solicited are ordered to denounce, within nine days, such confessors to the Inquisition, under pain of major excommunication and other penalties at discretion.[3] Again, in Spain, in 1767, after the expulsion of the Jesuits, their partisans among the priesthood used the confessional to excite disaffection, and succeeded in causing trouble sufficient to induce the Royal Council to issue an order to the bishops to put an end to the abuse.[4] In 1790, when the reforms of Joseph II. and Leopold II. had aroused the hostility of the curia the confessional was one of the means employed to stimulate disaffection in the Low Countries and in Tuscany.[5] In the province of Quebec it would appear that the use of the confes-

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[1] De Thou, Hist. Universelle, Liv. 86 (Ed. Bâle, 1742, T. VI. p. 723).

[2] Sarpi, Storia delle Cose passate tra Paola V. e la Repubblica, Lib. III. (Ed. Helmstadt, III. 42); Epist. v. ad Leschasserum (Ibid. VI. 40).

[3] Bibl. Nacional de Madrid, Seccion de MSS. H. 177, fol. 251.

[4] Carta de Edicto de Don Manuel Antonio de Palmero y Rollo, Obispo de Gerona, 8 Feb. 1768.

The Franciscan General, Juan de Molina, in a circular to his Order, confirms this emphatically as a matter within his own knowledge.—Letras de Fr. Francisco Marca, Barcelona, 12 Dic. 1767.

[5] Scaduto, Stato e Chiesa sotto Leopoldo I., Firenze, 1885, p. 380.

sional as an instrumentality in hotly contested elections is a recognized expedient.[1] The most recent and notorious case of this occurred in Ireland, in the South Meath election, in July, 1892, which was set aside after an exhaustive hearing by Mr. Justice O'Brien, himself a Catholic, on the ground of priestly interference, when, in the words of the decision, "the Church became converted for the time being into a vast political agency, a great moral machine, moving with resistless influence, united action and a single will"; when opposition to the clerical candidate was denounced by bishop and priest as a sin, and the confessional and the sacraments were utilized to secure votes; when the Hon. Mr. Healy, in his argument for the defence, urged that if "a Church was competent to decide upon morals it was competent to decide what morals are," and that "so long as a man owned the sway, so long as he went to church and listened to the moral teachings of that Church, he could not find fault with the teachers who came to lay down what they conceived to be moral doctrines as bearing upon the lives and passions or follies and mistakes of men."[2] In fact, the Church, as the supreme arbiter of morals, can always define that any given political action is sinful, and then it falls within the spiritual jurisdiction of the confessional as fully as any infraction of the decalogue.

With the decline of absolute monarchy and the rise of democracy under various constitutional forms there are thus boundless possibilities open to those who can control the confessional. In the earlier period this power was exercised by the confessors of princes and magnates, and to it may be largely attributed the success of the Church in establishing and maintaining its so-called "liberties" and the exemption of its members from secular jurisdiction, for especial stress is laid on these points in the instructions to confessors.[3] Every official act of magistrates, judges and rulers is subject to review in the tribunal of conscience, and it is the duty of the confessor to pass upon its innocence or sinfulness. The old formulas of interrogatories have sections devoted to functionaries of all kinds, and the searching nature of the questions directed to be put shows that the priest was

[1] Ruines cléricales, Montréal, 1893, pp. 49, 50.

[2] South Meath Election Petition, tried at Trim, Nov. 16–30, 1892. Dublin, 1892, pp. 235, 275–6, 281.

[3] Fornarii Institutio Confessarior. Tract. II. cap. 1.

empowered and expected to decide upon the largest measures of policy as well as upon the private transgressions of the individual. Not only is the use made by a monarch of his authority thus subjected to the scrutiny of his confessor, but even the legitimacy of his title, and he is told that if he is a usurper all his acts are void, and whatever moneys he has collected from his subjects are wrongfully acquired and must be restored.[1] Of course this is an extreme case which probably no confessor ever attempted to enforce, but it shows how completely in theory the sovereign is subordinated to his ghostly counsellor. In the fourteenth century Pedro the Ceremonious of Aragon enumerates the duties of the royal confessor as consisting in urging the king to works of piety, in reminding him of any omitted observances, and in secretly rebuking him for anything he may say or do which may in any manner cause offence to God[2]—altogether a somewhat elastic function, which, if conscientiously performed, had at least the advantage, in periods of absolutism, of keeping alive in the monarch a sense of his responsibility to God. The advent of probabilism introduced a means of temporizing between the secular and spiritual authority, for we are told that, if the confessor of a prince thinks that a law, a treaty, a war, a tax, or a decree is contrary to God, while the ruler, following the advice of his ministers, thinks otherwise, and if those ministers are unanimous, there is extrinsic probability that their opinion is true, and the monarch may be admitted to absolution, but if the ministers agree with the confessor the latter must maintain his position.[3]

According to the principles laid down by Bellarmine the confessor of a sovereign is the real ruler of a kingdom. He cannot absolve his penitent who confesses simply his sins as a private man and not those which he commits as a ruler; the prince may be personally pious and just, but yet may oppress his people; ignorance does not excuse him, unless it is invincible; he is responsible for the acts of his subordinates, and it is his duty to know how their functions are

[1] Bart. de Chaimis Interrog. fol. 64–66.

[2] Ordenacions fetes per lo molt alt Senyor en Pere terç (Coleccion de Documentos ineditos de la Corona de Aragon, V. 134–5). Pedro adds that his confessor must take an oath to reveal to him anything he may learn that may endanger the royal person, and that he will neither by word nor act consent to anything of the kind.

[3] Gobat Alphab. Confessarior. n. 558–9.

performed. The confessor stands in the place of God as judge, and he is not to be satisfied if he knows by report that officials discharge their duly badly, nor can he absolve the prince who simply renders satisfaction by penance, but must require him to restore the reputation of those injured, to repair all damages inflicted, to pay his debts promptly and to see that all wages are paid. All this is truly most excellent doctrine, if only it could be practised by imperfect human nature, and Bellarmine shows his sense of the temptations besetting the position when he warns the confessor that he must not frequent the court, or take part in intrigues, or seek to exalt or debase the aspirants for royal favor.[1] The venerable Palafox warns confessors that if they do not exert themselves against all wrong governmental measures they become accomplices in the sins.[2] It is not everyone who, like Baronius, when confessor of Clement VIII., reproached his penitent with the corn monopoly bestowed on his nephew, and when the latter in wrath threatened to deprive him of the purple, quietly replied, "I will relinquish without regret what I possess without desire."[3] Nor, it may be feared, are there many incapable of abusing their positions, like the saintly Hernando de Talavera, while holding the lofty sense of superiority which led him on his first confession of his penitent Isabella of Castile, to refuse to kneel with her before a bench, as was customary, and to tell her that she must kneel and he be seated, as she was in the tribunal of God of which he was judge.[4] Nor many like his successor, Ximenes, who made it a condition that he should not be required to reside at court, but only to come thither when sent for, and who, during his confessorship, visited as Franciscan Provincial, on foot, the whole of his province.[5] Quite as rare is a character like Fénelon, who drew up for the Duc de Bourgogne his *Examen de conscience sur les Devoirs de la Royauté*, which is an admirable exhortation for a monarch to live a personally virtuous life, to set an example of morality for his subjects, to administer equal justice to all, to practice economy and relieve his people from taxation, to avoid all unnecessary wars for conquest and

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[1] Bellarmini de Officio Principis Christiani Lib. I. cap. 6.

[2] Juan de Palafox, Historia Real Sagrada, Lib. IV. cap. 5, n. 11.

[3] Clericati de Pœnit. Decis. XXXVI. n. 9.

1618, p. 111.

[4] Gil Gonzalez Davila, Theatro eclesiastico de la Iglesia de Ávila, Salamanca.

[5] Gomecii de Rebus gestis a Francisco Ximenio, Compluti, 1569, Lib. I. fol. 6.

glory and, when forced into hostilities, to conduct them humanely and bring them to a speedy end, and, in short, representing the crown as the source of endless duties and responsibilities, to be discharged in the spirit of the most rigorous self-devotion.[1]

The qualities which insure success in courts are ordinarily not the Christian virtues, and the position of royal confessor has, for the most part, fallen into the hands of men like Père la Chaise, who, in the words of Madame de Maintenon, could, on the one hand, permit the sacraments to Louis XIV. while steeped in adultery, and on the other assure him that the revocation of the Edict of Nantes would not cost a drop of blood,[2] and who, by his complaisance to the king, became the most influential of his ministers.[3] No confessor, in fact, is likely to risk the royal favor by too absolute an exercise of his authority as the spokesman of God, for kings are rarely to be found

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[1] This, perhaps unconsciously, was the severest criticism on the life and government of Louis XIV., and was carefully kept from his knowledge in the hands of the Duc de Beauvilliers, thus escaping the destruction of Fénelon's MSS. by the king on the death of the Duc de Bourgogne. When the Marquis de Fénelon, in 1734, endeavored to print it at the end of his edition of Télémaque, it was suppressed by royal order.—Quérard, La France Littéraire, III. 91.

[2] Rulhière, Éclaircissemens Historiques sur les Causes de la Révocation de l'Édit de Nantes, pp. 86, 192.—"Il a déploré vingt fois avec moi les égaremens du Roi; mais pourquoi ne lui interdit-il pas absolument l'usage des Sacremens? Il se contente d'une demi-conversion. Il y a du vrai dans les Lettres Provinciales. Le Père de la Chaise est un honnête homme, mais l'air de la cour gâte la vertu la plus pure et adoucit la plus sévère."

[3] Fénelon, in his hardy letter to Louis XIV., says, "Pour votre confesseur, il n'est pas vicieux, mais il craint la solide vertu, et il n'aime que les gens profanes et relâchés; il est jaloux de son autorité, que vous avez poussée au delà de toutes les bornes. Jamais confesseurs des rois n'avaient fait seuls les évèques et décidé de toutes les affaires de conscience. Vous êtes seul en France, Sire, à ignorer qu'il ne sait rien, que son esprit est court et grossier, et qu'il ne laisse pas d'avoir son artifice avec cette grossièreté d'esprit. Les Jésuites mêmes le méprisent et sont indignés de le voir si facile à l'ambition ridicule de sa famille. Vous avez fait d'un religieux un ministre d'état. . . . Il est le dupe de tous ceux qui le flattent et lui font de petits présents. . . . Il va toujours hardiment sans craindre de vous égarer; il penchera toujours au relâchement et à vous entretenir dans l'ignorance. . . . Ainsi c'est un aveugle qui conduit un autre aveugle, et, comme dit Jésus Christ, ils tomberont tout deux dans la fosse."—Fénelon, Œuvres, Ed. 1838, III. 428.

La Chaise died in 1709, after a service of thirty-four years as confessor of Louis XIV.

who will submit to dictation beyond a certain point, yet, by judicious handling of the royal conscience, the influence of a shrewd and politic confessor on the policy of the state and on the fortunes of ministers and courtiers is too great not to render him one of the most important personages of a court. In the early fifteenth century the agent of the Teutonic Order in Rome advises the Grand-master that it is desirable to propitiate with presents the Patriarch of Grado, who, as confessor of Martin V., has great influence over him, while under his successor, Eugenius IV., his Dominican confessor was so powerful that all favors had to be sought through him.[1] How dangerous an element in the State might be this influence is visible in the instructions sent, in 1510, by Ferdinand the Catholic to Luis Caroz, his ambassador to England. He is told to induce Henry VIII. to make war on France; if necessary, he is to obtain for this the aid of Queen Katharine, and, if she refuses, he is to make use of the friar, her confessor, who is to tell her that, as a good Christian, she is bound to do so.[2] Katharine was doubtless less complying than her great-grand-nephew, Philip III., of whom his confessor, Fray Gaspar de Toledo, boasted that whenever he told him that a thing must be done under pain of mortal sin, or that a thing was sinful, he obeyed at once.[3] In such a court the confessor is all-powerful, and the result naturally is that we see the office constantly treated as a political one. In France, with the increasing insanity of Charles VI., his confessors succeeded each other as the factions of Burgundy and Orleans preponderated—the party in power required to have a representative as keeper of the king's conscience, and thus in rapid succession the position was occupied by Michel de Creney, Bishop of Auxerre, Jean Manson, Pierre de Chantelle and Renaud de Fontaines.[4] Spain gives us a thoroughly illustrative example when, under the regency of Maria Anna of Austria, widow

[1] Johannes Voight, Stimmen aus Rom (von Raumers Historische Taschenbuch, 1833, p. 128.

[2] Bergenroth, Calendar of Spanish State Papers, II. xxxviii. 52.

[3] Davila, Hist. de Felipe Tercero, Lib. II. Cap. lvii.

[4] Grégoire, Hist. des Confesseurs des Empereurs etc. pp. 276–77.—That Nicholas de Clemangis speaks highly of Michel (De novis Celebritatibus non instituendis), and that Pierre and Renaud were among his correspondents (Epist. CXXIII., CXXXII. sqq.), would seem to indicate that they were not unworthy of their position.

of Philip IV., her confessor, the German Jesuit Nithard, was all-powerful; she made him inquisitor-general till a political change forced her to dismiss him, when he went to Rome, where he became titular archbishop of Edessa and cardinal.[1] Her son, the feeble Carlos II., towards the end of his reign, fell under the domination of a triumvirate consisting of his confessor, Fray Pedro Matilla, his queen, Maria Anna of Neuburg, and Juan Tomás, Admiral of Castile, in whose hands the maladministration of the kingdom reached its climax. Carlos hated his confessor, but dared not remove him till, in 1698, Cardinal Portocarrero, to whom he happened to unbosom himself, called a conference of his friends, when it was agreed that the only way to effect a change in the government was to get rid of Matilla. Secretly Portocarrero proposed to the king a Dominican professor at Alcalá named Froylan Diaz; he eagerly assented, and Froylan was privately sent for and conveyed to the palace. Matilla happened to be in the royal antechamber when he saw the chamberlain, the Conde de Benavente, pass through it with Froylan and enter the king's apartment; he recognized the situation at once, retired to his cell in the convent del Rosario and died within a week. The admiral was relegated to his estates, and Portocarrero's friends conducted the government. Froylan was a learned and worthy man, but wholly untrained in court intrigues. In his zeal for the king, whose ill-health and impotence were attributed to sorcery, he, in conjunction with the inquisitor-general Rocaberti, sought, through the revelations of demoniac nuns, to learn who had bewitched him and the cure. They were rewarded with the information that the spell had been wrought on him, April 3, 1675, in a cup of chocolate, by his mother, who desired to retain her power, and again, September 24, 1694, when his queen was concerned in the act. After a year spent in these efforts, Rocaberti died in June, 1699. The queen had got wind of the manner in which she had been implicated and was eager for revenge. She procured from the enfeebled king the nomination, as inquisitor-general, of Mendoza, Bishop of Segovia, and promised him a cardinal's hat if he would destroy Froylan. The first step was to prosecute him before the Inquisition for heresy in dealing with the demons who possessed the nuns; Carlos, who had eagerly urged on the investigation, was

[1] Llorente, Historia crítica de la Inquisicion, Cap. XXVII. Art. vi. n. 3.

frightened into sacrificing him and accepting as confessor his most bitter enemy, Nicolás de Torres-Padmota, a German Dominican. Froylan fled to Rome, but royal letters were sent to the Duque de Uceda, the Spanish Ambassador, ordering him to seize Froylan and return him to Spain, as it was impolitic to allow a principal minister of the monarchy to remain abroad, where he might betray its secrets. Froylan was sent back and lodged in the prison of the Inquisition of Murcia, whence he was transferred to a cell in the college of S. Tomás of Madrid, where he was kept for three years secluded from all communication, although twice, when his trial was attempted, the *calificadores* of the Inquisition declared that there was nothing against him. Carlos had died November 1, 1700, and in the confusion of the opening years of the war of the Spanish Succession Mendoza was free to act in the most arbitrary manner. At length, in October, 1704, Philip V. intervened and ordered Froylan's release.[1] Philip himself was nearly as much subjected to his confessor as his predecessor. The first who occupied the position was the Jesuit Guillaume d'Aubenton, a skilful intriguer, who was leagued with Cardinal Alberoni. The Princesse des Ursins succeeded in having him dismissed, and replaced him with Father Robinet, another Jesuit, to whom the king confided the ecclesiastical patronage of the kingdom. When, in 1715, the primatial see of Toledo fell vacant, the queen and Alberoni desired it for the inquisitor-general, Cardinal Giudice, but Robinet secured it for Francisco Valera y Losa, Bishop of Badajoz, whereupon they procured his dismissal and reinstated D'Aubenton, who exercised a large influence over the policy of Spain.[2] The connection of the confessional and politics continued. In 1823, during the invasion of the French under the Duc d'Angoulême, which restored absolutism, Ferdinand VII. appointed the canon Victor Saez his "universal minister" and confessor, but the ministry was short, for the violent and sanguinary reaction conducted by Saez so disgusted Louis XVIII. and Alexander I. that they compelled Ferdinand to dismiss him, and he was rewarded with the see of Tortosa.[3]

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[1] Proceso Criminal fulminado contra el R^{mo} P. M. Fr. Froylan Diaz, Madrid 1788.—Críticos Documentos que sirven como de Segunda Parte al Proceso Criminal, Madrid, 1788.

[2] Grégoire, op. cit. pp. 223–5.

[3] Modesto de la Fuente, Historia de España, XXVIII. 172, 288, 297, 327, 329.

For the functions of such a position the Jesuits were especially fitted by their training in both morals and intrigue. Before the rise of the Society of Jesus the post had generally been held by Dominicans. About the year 1400 the Monk of S. Denis tells us that they filled nearly all such positions in the papal and other courts, and that they had been almost exclusively employed by the Kings of France until the scandal which, in 1387, arose in the University of Paris over their denial of the Immaculate Conception of the Virgin. Guillaume de Vallan, Bishop of Evreux and confessor of Charles VI., was driven from the court, and the Order was declared perpetually incapable of furnishing confessors to the kings.[1] Monteiro claims that in the thirteenth century the Dominican Gonzalez Telmo was confessor of San Fernando III., and that thenceforth for five hundred years, till the death of Carlos II., the royal confessors of Castile were Dominicans,[2] in which he is mistaken, for Hernando de Talavera was a Jeronymite and Ximenes a Franciscan. With the advent of the Jesuits, however, the Dominicans were elsewhere speedily displaced. Portugal was the first to welcome them, for when Loyola sent his comrade, Simon Rodriguez, there to found the Order, he rapidly, through the confessional, rendered the Society the virtual master of the kingdom; Jesuits were confessors of the royal family and of the nobles, and, except during the Spanish domination, dictated the policy of the realm. When Pombal resolved on their ruin, his first step was a royal order, October 20, 1759, depriving them of these positions as the necessary prelude to their suppression.[3]

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[1] Religieux de S. Denis, Hist. de Charles VI. Liv. VIII. ch. xiv.

[2] Monteiro, Historia da Santa Inquisicaò, I. 314.

[3] Seabra di Silva, Deduccion Chronologica y Analitica en que . . . se manifiestan los horrorosos estragos que hizo en Portugal la Compañia llamada de Jesus, Madrid, 1768, T. II. p. 310.

The title of this work suffices to indicate its violent partisanship, but it contains facts and documents sufficient to indicate the controlling influence exercised by the Jesuits in Portugal.

Pombal wrote, Feb. 20, 1758, to Don Francesco d'Almada, Portuguese ambassador at Rome, explaining this order—"Questo sembrava essere il mezzo più opportuno di disarmare questi religiosi e di togliere loro la riputazione che godevano per mezzo dei confessori della loro Maestà e della Famiglia Reale. Si abusavano di questa riputazione sino a porsi sotto ai piedi i ministri medesimi e tutti i cittadini per il timore che ad essi cagionavano con il loro gran potere e con la pompa formidabile che ne facevano agli occhi di tutto il mondo.

In France, the earliest Jesuit confessor was Edmond Auger, who occupied that position in the court of Henry III. After Henry IV. accepted the Jesuit Coton, the line was unbroken till the suppression of the Order in France in 1763, with the exception of the Abbé Fleury, who, by appointment of the Regent Orleans, was confessor of the youthful Louis XV. from 1716 to 1721. The position under Louis was scarce more than titular, though, when he was sick at Metz, it was to the Jesuit Pérusseau that he confessed, but it was the grand almoner Fitz-James Bishop of Soissons, who refused him the sacraments until he sent away the Duchesse de Châteauroux.[1] In Germany, up to the time of Joseph II., the confessors of the emperors and also of the electors of Bavaria were constantly Jesuits.[2]

In the earlier period of their career, the Jesuits were earnestly warned, when confessors of princes, not to meddle with worldly affairs. The fourth General of the Order, Everardo Mercuriano, in 1579, issued a mandate to this effect; the General Congregation of 1593–4 prescribed this rigorously, and so did Aquaviva in instructions of 1588 and 1602, but this received slack obedience, for Clement VIII. reproached them for mingling in the concerns of princes and endeavoring to govern the world at their pleasure.[3] The opportunities and temptations of the position were irresistible to able and ambitious men, and it was everywhere made use of to advance the interests of the Society and of the Holy See. There were, of course, exceptions, and if we may believe an anecdote related by Joseph II., his grand-uncle Joseph I. enjoyed the fortune of having an exceptional confessor. The latter was suspected of leaning to the interests of his penitent rather than to those of the papacy, and was therefore ordered to Rome. Joseph knew the cruel fate to which he would be exposed and endeavored to retain him, but in vain. The nuncio ordered him to depart, when the emperor declared that if he went he should be accompanied by all the Jesuits of the Austrian dominions, for he would expel the Society; the threat was sufficient, and

Donde ne venne fra gli altri perniciosi effetti che nel corso di molti anni non si ebbe il coraggio di eseguire verun ordine regio il quale potesse recare il minimo dispiacere a questi Padri."—Carlo Bosco, Anecdoti interessanti sulla Memoria Cattolica, Roma, 1787.

[1] De Backer, II. 42.—Grégoire, *op. cit.* pp. 389–93.

[2] Saint-Priest, La Chute des Jésuites, p. 186.

[3] Reusch, Beiträge zur Geschichte des Jesuitenordens, pp. 228–9.

the good father was allowed to remain. More zealous and less scrupulous was the Jesuit Parhammer, confessor of Maria Theresa. When, in 1771, the first partition of Poland was under consideration, she consulted him as to the morality of the project. It was too important a matter for him to keep to himself, and he communicated it to his superiors. Wilseck, the imperial ambassador at Rome, procured a copy of the letter and sent it to his mistress, which is said to have decided her to unite with France and Spain in urging the suppression of the Society.[1] More subservient to his penitent was the Jesuit Didier Cheminot, confessor of Charles IV., Duke of Lorraine, who, after marrying his cousin Nicole and living with her for twelve years, became enamored of Beatrix de Cusance, dowager princess of Cantecroix. Cheminot undertook to procure the dissolution of the marriage, and went to Rome, where he obtained the opinions of fourteen Jesuit doctors that it was null, because, among other reasons, Nicole had been baptized by a priest named le Chante, subsequently executed for sorcery, wherefore her baptism was invalid and she was not a Christian.[2]

It is fair to presume that royal confessors, as a whole, were neither better nor worse than other ministers and courtiers and just as ready to do good or evil as the occasion served, though morally in the latter case their influence was worse, since they justified the evil, not by reasons of state, but by perverting the principles of religion and morality and blunting the consciences of their penitents. They blunted their own, moreover, when they used their position for the benefit of their Orders or of the Holy See, to the sacrifice of the interests of the State, of which they were in fact ministers of the highest rank. In some cases they doubtless gave good advice, as when Charles V., after the battle of Pavia, called his councillors to decide as to what should be done with the captive Francis I. His confessor, Garcia de Loyasa, was first called upon for his opinion, and proposed that Francis should be liberated at once and without conditions, for this would result in peace and friendship and both

[1] Grégoire, *op. cit.* p. 169, 170.

[2] Calmet, Hist. de Lorraine, III. 372. Without awaiting a decision, Charles married Beatrix, caused her to receive the oath of allegiance, and refused to separate at the papal command. For this the pair were excommunicated by Urban VIII., in 1642, and, in 1653, the Rota declared their marriage null.—Ibid. Preuves. DXXV., DXXXI., DXXXV.

monarchs could devote themselves to the extirpation of the Lutheran heresy, but he was overruled by the Duke of Alba and the Chancellor Gattinara.[1] If wise counsels were sometimes thus rejected, the promptings of fanaticism were sometimes accepted, for the founding of the Spanish Inquisition is attributed to the persuasion of Torquemada, the confessor of Ferdinand and Isabella.[2] Sometimes, moreover, penitent and confessor were fairly matched, as when Philippe le Bel had as ghostly father Guillaume de Paris, the inquisitor of the Templars, and we may reasonably doubt the efficacy of the sacrament administered to such a sinner by his confederate in crime.

No one can deny that there is truth in Cardinal Newman's argument, "How many souls are there in distress, anxiety and loneliness, whose one need is to find a being to whom they can pour out their feelings unheard by the world. They want to tell them and not to tell them; they wish to tell them to one who is strong enough to hear them and yet not too strong to despise them." It is this weakness of humanity on which the Church has speculated to erect its dominion —the weakness of those unable to bear their burdens, unable to trust themselves, unable to face unassisted the possibilities of the future life, who find a comfort in the system built up through the experience of ages in exploring the follies and credulities of the human heart. Yet what bearing has Newman's argument on the enforced confessional—the confession to be made at stated times, irrespective of the mood of the penitent or of the fitness of the priest? The soul that can find consolation or comfort at such a source is a very weak and credulous soul that could find consolation and comfort in any other formality. Newman's postulate, that the confessor must be strong enough and not too strong, raises further the question as to where that ideal person is to be found. In theory the confessor is expected to be able to weigh and measure, as the representative of God, the exact sinfulness of the most complicated human transactions and the most intricate human motives, yet the definitions of the doctors as to the essentials fitting him for the position, after recapitulating the stores of learning and experience requisite for the duties of the

[1] Spondani Annal. Eccles. ann. 1525, n. 5.—Touron, Hommes illustres de l'Ordre de S. Dominique, IV. 96-7.

[2] Paramo de Origine Officii S. Inquisitionis, Madriti, 1598, p. 135.

confessional, are apt to conclude with the remark that the most necessary quality is distrust of his own capacity, readiness to doubt, and willingness to seek advice from those wiser than himself.[1] That exhaustless love and charity and unerring discretion must form part of his outfit is acknowledged,[2] but when all these essentials are happily united in one individual there comes the further difficulty that the delicate conscientiousness, which alone can fit a man to enact worthily the part of God in dealing with a sinner, must in itself render it impossible for him to assume the awful responsibilities of the office. If the powers of the confessor be such as the theologians represent, the mere fact that a man so believing is willing to assume them is the clearest demonstration of his unfitness. Angels might well fear to undertake what the stolid pastor of a country parish does as a matter of routine,[3] and Liguori does not recognize the mockery which he expresses of the whole system, when in one passage he enumerates as the necessary equipment of a confessor a knowledge of all sciences and arts and duties and of the true meaning of all laws and canons, and then in another he remarks that for the smaller towns and the galleys we must be content with such priests as can be had, however unlearned they may be.[4] Manuel Sa would seem to be more nearly correct when he says that a rash and unlearned confessor is an enemy of souls rather than a physician,[5] and the saying of St. Pius V. that with proper confessors the whole world would be saved, only emphasizes their unfitness when we regard the

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[1] S. Alph. de Ligorio Theol. Moral. Lib. VI. n. 627–8. Cf. Marchant Tribunal. Animarum Tom. I. Tract. II. Tit. 5, Q. 3, Dub. 6, 7.

[2] Müller's Catholic Priesthood, III. 126–7, 138.

[3] Atque hoc onus angelicis humeris formidandum maioris esse ponderis quam ut propriis viribus ab homine sustineri possit nisi divina roboretur virtute.—Mart. Fornerii Institutio Confessariorum Tract. I. cap. 1.

Apparently St. Charles Borromeo did not rely on this divine assistance when he directed confessors to be classified according to the cases which could be entrusted to them.—S. Car. Borrom. Instruct. Confessar. p. 79.

[4] S. Alph. de Liguori Praxis Confessar. cap. I. § iii. n. 17; Theol. Moral. *ubi sup.* Somewhat similar is the anti-climax of Herzig (Man. Confessar. P. I. n. 26–8) who, after eloquently describing how the confessor sits as physician, doctor and judge, weighing sins, prescribing remedies and imposing sentence, quotes approvingly La Croix's remark (*supra*, p. 369) that much learning may *per accidens* be rather hurtful than helpful and that it suffices for him to have read a *Summa* of cases.

[5] Em. Sa Aphor. Confessar. s. v. *Confessor*, Addit. ad calcem.

morals of Christendom from the thirteenth century to the present time. At the same time, if we eliminate the supernatural element in the confessional, except in so far as it serves to impress the penitent, there can be no doubt that a zealous, kindly and intelligent priest can effect much real good in restraining his penitents from evil, in arousing their better natures and in leading them to amendment and to the recognition of their duties to their fellows. Amid the chaos of formalism and probabilism one occasionally meets with admirable ethical instructions to confessors as to the discharge of their hortatory functions.[1]

In considering the changes in the theory and policy and practice of the Church which we have thus sought to trace from the beginning, due allowance should be made for the conditions which successively confronted it and the varying problems which it had to solve. Among the early disciples of Christ the law of love, for the most part, sufficed for those who had faith and were looking almost daily for the second coming of Christ and the Day of Judgment. As Gentiles, more or less corrupt, were admitted into the sacred band, and as the expectation of the Second Advent faded away, as spiritual enthusiasm decreased and human nature proved that it was not regenerated in the waters of baptism, there gradually was recognized the necessity of a spiritual criminal code by which the earthly penalties of sin should be defined, and the sinner be taught what means he should adopt to fit his soul for the judgment of the Divine Father. In the local autonomy which everywhere prevailed, each diocese or province constructed its code to suit its own needs and aspirations, and its rules were adopted or rejected elsewhere as they chanced to meet or to conflict with the ideas current there. In cases of public and notorious sin, moreover, the growth of the power of excommunication gave to the bishop a jurisdiction enabling him to coerce the sinner to repentance and to seek reconciliation with the Church, which thus in time came to assume the conception of a corporation interposing itself between God and man, and asserting itself as the only gateway to salvation. Belief in an intermediate state of the soul, known as purgatory, gradually spread and enabled

[1] The best work of this kind that has come within my reach is Bishop Zenner's *Instructio practica Confessarii*, Vienna, 1857.

the Church to assert a qualified influence on the destiny of the sons after death.

New problems arose when Christianity found itself confronted by the Barbarians, with the gigantic and seemingly hopeless task before it of subduing their wild and untamed natures to obedience. In accomplishing this the Church necessarily lost as well as gained. It was obliged to adapt itself to its new converts, and in much to be content with such external form of submission as it could secure. Its conceptions inevitably grew more and more materialistic; formalism more and more took the place of spiritual earnestness; penitentials, or codes which prescribed for every sin its appropriate punishment, sprang up, and for centuries were regarded as unfailing guides, while their severity was mitigated by the commutations, pecuniary or otherwise, which they admitted in compliance with the universal custom of the Barbarians. The size of the new dioceses and the growing temporal cares of the prelates rendered impossible the exclusive control of penance and reconciliation by the bishops, and it was more and more usurped by the priests, who at last, in the twelfth century, secured the recognition of a share in the power of the keys.

As civilization slowly advanced it outgrew the rigid prescriptions of the penitentials, which gradually fell into desuetude, though still retaining a nominal authority. Something better fitted to control the awakening intelligence of the people was required, and this the schoolmen of Paris sought to find. They developed the theory of the sacraments and established the power of the keys; an immense impetus was given to sacerdotalism; confession and penance became a sacrament; the old-time public penance and reconciliation died out and were replaced by auricular confession and absolution, which the priest assumed the power to bestow instead of humbly appealing for it to God in behalf of the sinner. Scholastic theology arose with its infinite longing to explain and define every detail in God's government of the universe and its exhaustless dialectic ingenuity that could prove any desired conclusion from the slenderest premises. The gap in the theory of sacramental absolution was filled by the discovery of the treasure of Christ's merits confided to the Church for dispensation, and a plausible system was built up with a semblance of logical deductions sufficiently truth-like to satisfy an age in which intellectual culture and activity were held strictly

subordinated to faith. Then came the revolt of the sixteenth century, to meet which the council of Trent sifted the speculations of the schoolmen and moulded together their most acceptable conclusions in a body of doctrine authoritatively presented for the acceptance of the faithful. We have seen how this was followed by the rise of the new science of Moral Theology, modifying greatly the conceptions of the relations between the sinner and his God and working a corresponding alteration in the duties of the confessional. Yet alongside of all this incessant change there had grown up another development of the power of the keys, known as the Indulgence, which became a factor of primary importance in the scheme of salvation. To this occasional allusions have been made above, and its further detailed consideration is necessary if we would obtain a comprehensive view of the functions of the Church as the instrument through which God deals with men.

INDEX TO PART I.

(VOLUMES I. AND II.)

ERRATA.

VOL. I. p. 13, line 6 of notes, for Lampridianus, and p. 42, line 15 of notes, for Lampronianus, read Lamponianus.

VOL. II. p. 59, line 7 from bottom, for 1000 read 900.